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T3653-879348US
(328)

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TYSONS CORNER

Miles & Stockbridge PC
1751 Pinnacle Drive
Suite 500
McLean, VA 22102-3833

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MAR 25 2004
OFFICE OF PETITIONS

In re Reissue Application of :
Michael. A. Tzannes, et al. :
Reissue Application No.: 10/603,833 :
Filed: June 26, 2003 :
Original Patent No. 6,252,909 :
Issue Date: June 26, 2001 :
For: MULTI-CARRIER TRANSMISSION :
SYSTEM UTILIZING CHANNELS OF :
DIFFERENT BANDWIDTH :

ON PETITION

DOCKETED
BY ___ ON 3/30
BY ___ ON 3/31
DUE DATE 5-25-04
CALL UP ___

This is in response to the "Petition Under 37 CFR 1.47(a), filed December 9, 2003.

The petition is **DISMISSED**.

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

Petitioner has not provided an acceptable reissue oath or declaration in compliance with 37 CFR 1.63 in that the oath or declaration does not contain the country of citizenship or the mailing addresses for the two nonsigning inventors. Petitioner must submit an acceptable oath or

declaration in compliance with 37 CFR 1.63 and 37 CFR 1.175, executed by the signing inventors on behalf of the nonsigning inventors, with the pertinent information of the nonsigning inventors contained therein.

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

Effective December 1, 2003, the Office of Petitions can no longer receive hand-carried correspondence, or facsimile transmissions of correspondence. The centralized location for hand-carried correspondence is the Customer Window located at:

2011 South Clark Place
Crystal Plaza Two Lobby
Room 1B03
Arlington, VA 22202

The centralized facsimile number is **(703) 872-9306.**

Telephone inquiries should be directed to the undersigned at (703) 306-3475.

Marianne E. Morgan

Marianne E. Morgan
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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TYSONS CORNER

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OFFICE OF PETITIONS

In re Application of	:
Tzannes, Heller, Stautner, Morrell,	: DECISION ACCORDING STATUS
and Jayashema	: UNDER 37 CFR 1.47(a)
Application No. 10/603,833	:
Filed: 26 June, 2003	:
Atty Docket No. T3653-8793US05	

This is in response to the renewed petition filed under 37 CFR 1.47(a) on 21 April, 2004.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventors could not be reached to join in the filing of the above-identified reissue application despite having been sent a copy of the application papers. Specifically, petitioners have established that a copy of the application was sent to the non-signing inventors, William R. Morrell and Sriram Jayashima by Federal Express. However, the applications were returned as undeliverable. Petitioners have also provided evidence of diligent efforts to locate the non-signing inventors. Despite diligent efforts, the non-signing inventors could not be located.

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

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

After this decision is mailed, the application will be forwarded to Technology Center 2600 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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DIW 05-04

William R. Morrell
401 E. Mercer St, #8
Seattle WA 98102

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MAY 0 7 2004
OFFICE OF PETITIONS

In re Application of
Tzannes et al.
Application No. 10/603,833
Filed: 26 June, 2003
For: MULTI-CARRIER TRANSMISSION SYSTEM UTILIZING CHANNELS OF DIFFERENT BANDWIDTH

Dear Mr. Morrell:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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LATHROP & GAGE LLP
4845 PEARL EAST CIRCLE
SUITE 201
BOULDER CO 80301

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NOV 06 2009

OFFICE OF PETITIONS

In re Patent No. 7,022,960	:	
Issue Date: April 04, 2006	:	
Application No. 10/994,960	:	NOTICE UNDER 37 CFR. 1.28(c)
Filed: November 22, 2004	:	
Attorney Docket No. 480390	:	

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

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

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

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

Inquiries related to this communication should be directed to the Michelle R. Eason at (571) 272-4231.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/9/07

TO SPE OF : ART UNIT 1646

SUBJECT : Request for Certificate of Correction on Patent No.: 7189539

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:

GARY B. NICKOL, PH.D.
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE

1646
Art Unit

Copied from 10974987 on 06/11/2007

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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Henry Villadiego	: DECISION ON REQUEST FOR
Patent Number	: 7631348	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,000	: 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 **928** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 OFFICE OF DAVID MCEWING
P.O. BOX 231324
HOUSTON TX 77023

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of

VERGHIS, J. Simon
Application No. 10/995,009
Filed: November 21, 2004
Attorney Docket No. **VERG-02**

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 08, 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 David McEwing, the sole attorney of record. David McEwing has been withdrawn as attorneys or agents of record.

All future correspondence will be directed to the inventor James Verghis at the address indicated below. There is an outstanding Office action mailed December 23, 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: **JAMES S. VERGHIS**
12 ESQUILA ROAD
SANTA FE NM 87508

mai

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Nixon and Vanderhye P.C.
1100 North Glebe Road 8th Floor
Arlington VA 22201-4714

(For Patent Owner)

Paul F. Fehlner, Ph.D.
Darby & Darby. P.C.
P.O. Box 5257
New York, NY 10150-5257

(For Requester)

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JUL 1 2 2005

REEXAM UNIT

In re Reissue Application of
Keen *et al*
Application No.: 10/995,010
Filed: November 22, 2004
For: U.S. Patent No. 5,633,162

In re GLAXOSMITHKLINE
Reexamination Proceeding
Control No.: 90/006,656
Filed: June 2, 2003
For: U.S. Patent No.: 5,633,162

DECISION, *SUA SPONTE*, TO MERGE REISSUE AND REEXAMINATION PROCEEDINGS

The above reissue application and reexamination proceedings are before the Office of Patent Legal Administration for *sua sponte* consideration of whether the proceedings should be merged under 37 CFR 1.565(d) at this time.

REVIEW OF FACTS

1. U.S. Patent No. 5,633,162 (the '162 patent) issued on May 27, 1997.

2. A request for reexamination, assigned control No. 90/006,656 (the '656 reexamination proceeding), was filed by a third party requester on June 2, 2003.

3. Reexamination was ordered in the '656 reexamination proceeding on August 20, 2003.

4. A non-final Office action was mailed in the '656 reexamination proceeding on September 21, 2004.

6. A response to the non-final Office action in the '656 reexamination proceeding was received from the patent owner on November 22, 2004.

7. A reissue application for the '162 patent was filed on November 22, 2004 and assigned application number 10/995,010 (the '010 reissue application).

8. A preliminary amendment was filed in the reissue application concurrently with the filing of the reissue application.

9. Notice of the filing of the reissue application was published in the *Official Gazette* on January 25, 2005.

10. The reissue application has been assigned to an examiner and docketed for examination.

DISCUSSION REGARDING MERGER

Under 37 CFR 1.565(d):

> "If a reissue application and an *ex parte* reexamination proceeding on which an order pursuant to § 1.525 has been mailed are pending concurrently on a patent, a decision will normally be made to merge the two proceedings or to suspend one of the two proceedings."

As evidenced by the above review of facts, reissue application No. 10/995,010 and reexamination control No. 90/006,656 are currently pending. Since the order to reexamine has been mailed in the reexamination proceeding, a decision under 37 CFR 1.565(d) is timely.

The general policy of the Office is that a reissue application examination and a reexamination proceeding will not be conducted separately, and at the same time, as to a particular patent. The reason for this policy is to prevent inconsistent, and possibly conflicting, amendments from being introduced into the two proceedings on behalf of the patent owner. Normally, the proceedings will be merged when it is desirable to do so in the interest of expediting the prosecution of both proceedings. In making a decision on whether or not to merge the two proceedings, consideration will be given to the status of each proceeding. See MPEP § 2285.

In order to provide efficient and prompt handling of both proceedings and to prevent inconsistent, and possibly conflicting, amendments from being introduced on behalf of the patent owner, it is appropriate that the instant reissue and the reexamination proceedings be merged and a joint examination be conducted. Accordingly, the examination of the reissue application and the reexamination proceedings will be merged in accordance with the decision set forth below.

It is to be noted, however, that the grant of merger of a reissue application and an *ex parte* reexamination proceeding under 37 CFR 1.565(d) is discretionary. *The present merger is not an assurance that, in a future similar situation, merger would be ordered.*

DECISION MERGING THE REISSUE AND REEXAMINATION PROCEEDINGS

I. Merger of Proceedings

The above-captioned reissue and reexamination proceedings are hereby merged. A joint examination will be conducted in accordance with the following guidelines and requirements.

II. Requirement for Identical Specifications, Claims and Drawings in Both Proceedings

1. The patent owner is required to maintain identical specifications, claims and drawings in the reissue application and the reexamination proceeding files for purposes of the merged proceeding. The maintenance of identical specifications, claims and drawings in both proceedings is required as long as the proceedings remain merged. See 37 CFR 1.565(d).

2. A review of the reexamination file for the '656 reexamination proceeding shows that (a) original patent claims 2-13 and 16-18 are present and not amended, (b) original patent claims 1, 14 and 15 have been amended, (c) no patent claims have been canceled, (d) no new claims have been added, and (e) the specification has been amended. A review of the file of the '010 reissue application shows that (a) original patent claims 2-13 and 16-18 are present and not amended, (b) original patent claims 1, 14 and 15 have been amended, (c) no patent claims have been canceled, (d) no new claims have been added, and (e) the specification has been amended. Accordingly, the claims are identical in number, but may or may not be identical as to content in both proceedings. The specifications have been amended in both proceedings, but may or may not be identical in content in both proceedings. Each proceeding includes the same number of drawing figures, but the drawings may or may not be identical.

If the claims and/or the specifications and/or drawings are different as to content in the above captioned reissue and reexamination proceedings, then an appropriate housekeeping amendment is required within ONE (1) MONTH of this decision - rendering the claims, specifications and drawings in the '656 and '010 proceedings identical.

If the claims, specifications and drawings are identical as to text, a patent owner statement to that effect is required to be filed in each proceeding within ONE (1) MONTH of this decision.

The response to this requirement **must** be limited to either:

a) Amendment of one or both of the proceedings - placing identical claims, specifications and drawings in both proceedings; or

b) A patent owner statement filed in both proceedings that the claims, specifications and drawings are identical in both proceedings.

The patent owner must not address any issue of patentability in the response.

III. Conduct of the Merged Reissue Application Examination and Reexamination Proceedings

1. After the appropriate patent owner response as per Part II above is received, or after the time set for filing the response expires, the examiner should promptly prepare an Office action.

2. In the event that any necessary housekeeping amendment(s) is/are not timely submitted, any claim that does not contain identical text in both proceedings should be rejected under 35 U.S.C. § 112, paragraph 2, as being indefinite as to the content of the claims, and thus failing to particularly point out the invention.

3. Because the statutory provisions for reissue application examination include, *inter alia,* provisions equivalent to 35 U.S.C. § 305 relating to the conduct of reexamination proceedings, the merged examination will be conducted on the basis of the rules relating to the broader, reissue-application examination. The examiner will apply the reissue statute, rules, and case law to the merged proceeding. However, any shortened statutory period set for the filing of response to an Office action should be set at TWO (2) months to comply with the statutory requirement for special dispatch in *ex parte* reexamination (35 U.S.C. § 305). Extensions of time will be governed by 37 CFR 1.136.

4. Each Office action issued by the examiner will take the form of a single action that jointly applies to the reissue application and the reexamination proceeding. Each action will contain identifying data for both of the proceedings, i.e., the '010 reissue application and the '656 reexamination proceeding (which will be maintained as separate files).

5. Any response by the applicant/patent owner **must** consist of a single response, with two copies being filed for entry into the two files, with each of the two bearing a signature. Any such responses must be served on the requester, who will also be sent copies of Office actions.

6. Pursuant to MPEP 2285:

   > "Amendments should be submitted in accordance with the reissue practice under ... 37 CFR 1.173; see MPEP § 1453."

   Thus, the filing of any amendments to the drawings, specification, or claims must comply with the provisions of 37 CFR 1.173 and the guidelines of MPEP 1453. It is to be noted that **37 CFR 1.121 does not apply to amendments in reissue.** Accordingly, clean copies of the amended claims are not required and *are not to be submitted.* Instead, amendments are to be presented via markings pursuant to 37 CFR 1.173(d), except that a claim should be canceled by a statement canceling the claim, without presentation of the text of the claim.

   Pursuant to 37 CFR 1.173(g), all amendments must be made relative to the patent specification, including the claims, and the drawings, which are in effect as of the date of filing the reissue application. **Amendments are *not to be made relative to previous amendments.*** Thus, for all amendments, all words not appearing in the patent are always underlined, and only words being deleted from the patent appear in brackets. Attention is invited to MPEP § 1453.

7. Where a paper is filed which requires payment of a fee (e.g., petition fee, appeal fee, brief fee, oral hearing fee), only a single fee need be paid. For example, only one fee need be paid for patent owner's appeal brief, even though the brief relates to merged multiple proceedings and copies must be filed (as pointed out above) for each file in the merged proceeding.

8. Upon return of the present merged proceeding to the examiner, the examiner will review the files to insure that each file contains identical citations of prior patents and printed publications, and the examiner will cite such documents as are necessary as part of the next action in order to place the files in that condition.

9. If the reissue application ultimately matures into a reissue patent, the reexamination proceeding shall be concluded by the grant of the reissue patent, and the reissue patent will serve as the certificate under 37 CFR 1.570. See MPEP § 2285.

10. If the applicant/patent owner fails to file a timely and appropriate response to any Office action, the reissue application will be held abandoned, and the merger will be dissolved. With respect to the reexamination proceeding, the Director will proceed to issue a reexamination certificate under 37 CFR 1.570 in accordance with the last action of the Office, unless further action is clearly needed as a result of the difference in rules relating to reexamination and reissue proceedings. For any further action in the reexamination proceeding, any grounds of rejection that are not applicable under reexamination would be withdrawn (e.g., based on public use or sale), and any new grounds of rejection which are applicable under reexamination (e.g., improperly broadened claims) would be made by the examiner upon dissolution of the merged proceeding. The existence of any questions/issues remaining which cannot be considered under reexamination following the dissolution would be noted by the examiner as not being proper under reexamination pursuant to 37 CFR 1.552(c).

11. If the applicant/patent owner files an express abandonment of the reissue application pursuant to 37 CFR 1.138, the next Office action of the examiner will accept the express abandonment, dissolve the merged proceeding, and continue examination as to the reexamination proceeding. Such examination would be conducted as set forth in the immediately preceding paragraph.

CONCLUSION

1. Reissue application No. 10/995,010 and reexamination control No. 90/006,656 ARE MERGED into a single consolidated proceeding. A copy of this merger decision will be made of record in both of the files.

2. Pursuant to Part II of this decision, to the extent the claims and/or specifications and or drawings differ between the two proceedings, patent owner is required to file any housekeeping amendment(s) that is/are required within ONE MONTH of this decision, placing the same claims, specifications and drawings in both the '656 reexamination proceeding and the '010 reissue application, in view of the fact that these proceedings are

presently merged. **If the claims, specifications and drawings are identical as to text and content in both proceedings, then patent owner is required to submit a statement to that effect in each proceeding within ONE MONTH of this decision.**

3. The reissue and reexamination files are being forwarded to the examiner via the Director of Technology Center 1600. Upon receipt of same, the examiner should not issue an Office after the earlier of:

   (a) The submission of a patent owner response which is either (i) a housekeeping amendment (or amendments) to place identical specifications, claims and drawings in both cases or (ii) a statement that the claims, specification and drawings of both proceedings are identical as to text and content, or

   (b) The expiration of the ONE MONTH period (from the mailing of this decision) set in this decision for the patent owner to respond.

4. All further examination in the merged proceeding should be conducted in accordance with Part III of this decision.

5. Telephone inquiries related to this decision should be directed to Stephen Marcus, Legal Advisor, at (571) 272-7743.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

SM
July 11, 2005

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

In re Application of	:	
James D. Shinn II et al	:	
Application No. 10/995,024	:	ON PETITION
Filed: November 22, 2004	:	
Attorney Docket No. 14800-004001	:	

This is a decision on the petition, filed December 13, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 10, 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 2856 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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SCOTT J. FIELDS, ESQ.
550 TOWNSHIP LINE ROAD
SUITE 400
BLUE BELL PA 19422

MAIL

SEP 13 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Michael Bulmer
Application No. 10/995,026
Filed: November 22, 2004
For: **ALERT SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed August 26, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

A review of the file finds that applicant has appointed an attorney or agent to conduct all business before the Patent and Trademark Office. Double correspondence with an applicant and applicant's attorney or agent will not be undertaken. Accordingly, applicant is required to conduct all future correspondence through the attorney or agent of record. See 37 CFR 1.33.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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Commissioner for Patents
United States Patent and Trademark Office
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Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Polidori and Hall
Application No. 10/995,030
Filed: November 19, 2004
Title: APPARATUS AND METHODS FOR ASSESSING METABOLIC SUBSTRATE UTILIZATION

: DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on May 13, 2005. Petitioner obtained a three-month extension of time for filing a reply. Accordingly, the petition is filed timely.

The petition is granted.

Petitioner showed that Kevin Hall, the non-signing inventor, refused to join in the filing of the above-identified application. Specifically, Brian J. Gustafson stated that he contacted Kevin Hall by email and offered to provide him with a copy of the application including a Declaration. Mr. Gustafson asserted that inventor Hall indicated he would refuse to accept delivery of the application and was unwilling to execute the Declaration.

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

There is no indication that the practitioner herein is empowered to prosecute the application. Moreover, the application file does not indicate that petitioner submitted a change of address in this case, although the address given on the petition differs from the address of record. If the practitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and a change of correspondence address should be submitted.

This matter is being referred to Technology Center Art Unit 3762 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Kevin Hall
10380 Swift Stream Place, Apt. 401
Columbia, MD 21044

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JUL 0 1 2005

OFFICE OF PETITIONS

In re Application of
Polidori and Hall
Application No. 10/995,030
Filed: November 19, 2004
Title: APPARATUS AND METHODS FOR ASSESSING METABOLIC SUBSTRATE UTILIZATION

LETTER

Dear Mr. Hall:

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Fish & Richardson P.C.
500 Arguello Street, Suite 500
Redwood City, CA 94063

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ENTELOS, INC.
c/o Law Offices of Karen E. Flick
P.O. Box 515
El Granada, CA 94018-0515

Mail Date: 04/21/2010

Applicant	: David Polidori	: DECISION ON REQUEST FOR
Patent Number	: 7654955	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,030	: 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 **1324** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
10/995,031	11/22/2004	2122	0.00	MSFT123883	4	26	6

CONFIRMATION NO. 2683

CORRECTED FILING RECEIPT

OC000000015393940

26389
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Date Mailed: 03/10/2005

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

Applicant(s)

John C. Delo, Bellevue, WA;

Assignment For Published Patent Application

Microsoft Corporation, Redmond, WA

Power of Attorney:

Gary Kindness–22178
Lee Johnson–22946
James Uhlir–25096
James Anable–26827
Dennis Shelton–26997
Ward Brown–28400
Jerald Nagae–29418
Jeffrey Sakoi–32059
Rodney Tullett–34034
Robert Carlson–35472

Domestic Priority data as claimed by applicant

This application is a CON of 09/994,254 11/26/2001
which is a CON of 09/157,776 09/21/1998 PAT 6,378,127

Foreign Applications

If Required, Foreign Filing License Granted: 01/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/995,031

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

Non-Publication Request: No

Early Publication Request: No

Title

Software installation and validation using custom actions

Preliminary Class

717

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

GRANTED

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of
Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen
Application No. 10/995,062
Filed: November 22, 2004
Attorney Docket Number: 1578.160
Title: METHOD AND SYSTEM FOR MONITORING THE HEALTH OF WIRELESS TELECOMMUNICATION NETWORKS

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 July 1, 2005, which contains a certificate of mailing dated June 27, 2005.

The above-identified application was filed on November 22, 2004, identifying Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen as joint inventors. The declaration submitted on filing was not executed by any of the inventors. On December 28, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees.

On July 1, 2005, the present petition was filed, along with the petition fee, the surcharge, a four-month extension of time, the basic filing fee, and the fees for the excess claims. Petitioner has also included a declaration executed by each of the joint inventors save Mr. Lankford, the last known address of non-signing joint inventor Lankford, and a print-out of a Federal Express tracking report.

Petitioner has met requirements (1) – (3) and (5) above.

Regarding the fourth requirement above, Petitioner has not submitted adequate proof that diligent efforts have been made to locate the non-signing inventor. Petitioner has set forth that a complete copy of the application was sent to the last known address of the non-signing inventor, and the included documentation from Federal Express indicates that the package was returned for being addressed to an "incorrect address[2]." Hence, Petitioner was not able to reach the non-signing inventor. *As petitioner has set forth that the non-signing joint inventor "can not be reached[3]", Petitioner is required to establish that a diligent effort was made to locate the non-signing inventor.* There is no indication that Rule 47 applicant attempted to determine the forwarding address of this individual and to send the application papers to that address for consideration by the inventor[4]. It does not appear that any search was made for the non-signing inventor. As such, Petitioner is not able to assert that a diligent effort was made to locate this individual. If attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions[5].

As such, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski.

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2 See Federal Express tracking report, the 11:53 AM June 2, 2005 entry.
3 Petition, page 3, paragraph 12.
4 See MPEP 409.03(d).
5 See MPEP 409.03(d).

fsAny renewed petition may be submitted by mail[6], hand-delivery[7], or facsimile[8].

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

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

6 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

7 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.

8 (571) 273-8300- please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to (571) 273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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OFFICE OF PETITIONS

In re Application of
Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen
Application No. 10/995,062
Filed: November 22, 2004
Attorney Docket Number: 1578.160
Title: METHOD AND SYSTEM FOR MONITORING THE HEALTH OF WIRELESS TELECOMMUNICATION NETWORKS

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

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed October 17, 2005[2].

The above-identified application was filed on November 22, 2004, identifying Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen as joint inventors. The declaration submitted on filing was not executed by any of the inventors. On December 28, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $130;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

2 The renewed petition contains a certificate of mailing dated October 14, 2005.

the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees.

The original petition was filed on July 1, 2005, and was dismissed via the mailing of a decision on August 14, 2005, for failure to establish that a diligent search was performed in an attempt to locate the non-signing inventor. With the present petition, Petitioner has asserted that he performed a search, "using an Internet-based name and telephone number search engine" but he did not find any "plausible entry for Mr. Lankford[3]."

It does not appear that Petitioner has included a copy of the search results. As noted on the second page of the decision on the original petition:

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions.

As such, the renewed petition under 37 C.F.R. §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 "Second Renewed Petition Under 47 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

Petitioner may wish to consider including a printout of the results of this search.

The second renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and any renewed petition may be submitted by mail[4], hand-delivery[5], or facsimile[6].

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

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

3 Renewed petition, paragraph 15.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number. On July 15, 2005, the Central FAX Number changed to (571) 273-8300. To give customers time to adjust to the new Central FAX Number, faxes sent to the old number (703-872-9306) will be routed to the new number until September 15, 2005.

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OFFICE OF PETITIONS

In re Application of
Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen
Application No. 10/995,062
Filed: November 22, 2004
Attorney Docket Number: 1578.160
Title: METHOD AND SYSTEM FOR MONITORING THE HEALTH OF WIRELESS TELECOMMUNICATION NETWORKS

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

This is in response to the second renewed petition under 37 C.F.R. §1.47(a)[1], filed December 30, 2005.

The above-identified application was filed on November 22, 2004, identifying Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen as joint inventors. The declaration submitted on filing was not executed by any of the inventors. On December 28, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $400;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees.

The original petition was filed on July 1, 2005, and was dismissed via the mailing of a decision on August 14, 2005, for failure to establish that a diligent search was performed in an attempt to locate the non-signing inventor. With the present petition, Petitioner has asserted that he performed a search, "using an Internet-based name and telephone number search engine" but he did not find any "plausible entry for Mr. Lankford[2]."

The renewed petition was filed on October 17, 2005 and was dismissed via the mailing of a decision on October 26, 2005 for failure to provide a copy of the search results.

With this second renewed petition, Petitioner has provided a copy of the search results, and it does not appear that Petitioner has performed a diligent effort in attempting to locate the missing inventor. It should be noted that Petitioner has not provided the search terms which were used in performing two of these searches.

Petitioner searched for the non-signing inventor using Switchboard®.com, WhitePages®.com, and Intelius®.com. The first search provided 1 result, the second provided 4 results (with 1 being a duplicate of an address provided by the previous search), and the third provided 7 results.

Regarding the Switchboard® search, it appears as though the search was narrowly tailored to only search for records in the state of North Carolina. For example, when the undersigned performed a nationwide search for this individual using this same website, 8 results were obtained. It is plausible that since leaving the employment of the assignee, the non-signing inventor has moved to seek employment elsewhere, possibly out of state or even out of the country, and as such, the search was too narrow to constitute a diligent search.

Regarding the WhitePages® search, it appears that this search was similarly tailored to only search records in the state of North Carolina. When a nationwide search was performed by the undersigned, 5 results were obtained. Furthermore, Petitioner's search provided 3 results which were not provided by the previous search, yet for unknown reasons, it does not appear that Petitioner chose to follow any of these leads.

Regarding the Intelius® search, Petitioner narrowly tailored his search to a particular address: "100 Starwood Ln, Holly Springs, NC." When a nationwide search was performed on this website, 53 results were obtained, with 33 of them being potentially viable results. Furthermore, Petitioner chose not to follow any of the 7 leads which his search provided.

The searches which Petitioner performed were too narrow in scope, and Petitioner did not follow up on the majority of the leads which these narrow searches obtained. Therefore, Petitioner's efforts to locate the non-signing inventor cannot be considered to have been diligent.

As such, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

---

2 Renewed petition, paragraph 15.

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 "Second Renewed Petition Under 47 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an oath or declaration executed by the non-signing inventor. Petitioner may wish to conduct a nationwide search for the non-signing inventor, and follow up on the each of the leads which this search provides. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 C.F.R. §1.136(a). This is not a final agency action within the meaning of 5 U.S.C 704.

The third renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

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

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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

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OFFICE OF PETITIONS

In re Application of
Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen
Application No. 10/995,062
Filed: November 22, 2004
Attorney Docket Number: 1578.160
Title: METHOD AND SYSTEM FOR MONITORING THE HEALTH OF WIRELESS TELECOMMUNICATION NETWORKS

DECISION NOTING JOINDER AND DISMISSING RENEWED PETITION UNDER 37 C.F.R. §1.47(A) AS MOOT

This is in response to the third renewed petition under 37 C.F.R. §1.47(a)[1], filed March 27, 2006.

The above-identified application was filed on November 22, 2004, identifying Allan D. Lewis, Mihal Lazaridis, Gerald Winton Lankford, Herbert A. Little, Hugh Hind, and Ian M. Pattersen as joint inventors. The declaration submitted on filing was not executed by any of the inventors. On December 28, 2004, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" was mailed, indicating that an executed declaration would be required, along with the surcharge associated with the late filing of the same, the basic filing fee, and additional claim fees.

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $400;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
(3) a statement of the last known address of the non-signing inventors;
(4) either
a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
b) proof that the non-signing inventor cannot be found or reached after diligent effort;
(5) a declaration which complies with 37 CFR §1.63.

The original petition was filed on July 1, 2005, and was dismissed via the mailing of a decision on August 14, 2005, for failure to establish that a diligent search was performed in an attempt to locate the non-signing inventor.

The renewed petition was filed on October 17, 2005 and was dismissed via the mailing of a decision on October 26, 2005 for failure to provide a copy of the search results.

The second renewed petition was filed on December 30, 2005, and was dismissed via the mailing of a decision on January 23, 2006, for failure to establish that a diligent search was performed in an attempt to locate the non-signing inventor – Petitioner found several leads, but chose not to follow up on the majority of them.

With this third renewed petition, Petitioner has followed up on these leads, located the correct address for the non-signing joint inventor, and has secured an executed declaration from the same.

As such, the renewed petition under 37 C.F.R. §1.47(a) is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 CFR §1.47(a) is not necessary and the petition is considered moot. This application does not have any Rule 1.47(a) status. This application need not be returned to this Office for further consideration under 37 CFR §1.47(a).

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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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DOCKET CLERK
Kelly-Krause
PO BOX 12608
DALLAS, TX 75225

Mail Date: 04/21/2010

Applicant	: Allan D. Lewis	: DECISION ON REQUEST FOR
Patent Number	: 7616665	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,062	: 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 **1293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Commissioner for Patents
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	:	
Timothy GIBSON et al.	:	
Application No. 10/995,065	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO WITHDRAW
Attorney Docket No. 300/16	:	FROM RECORD
	:	

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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KEVIN FARRELL
PIERCE ATWOOD
ONE NEW HAMPSHIRE AVENUE
PORTSMOUTH NH 03801

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of

Christopher E. Frank, et al.
Application No. 10/995,080
Filed: November 22, 2004
Attorney Docket No. IST0000US02

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 18, 2006.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JEFFREY JOHNSON
WILMER, CUTLER, PECKERING, HALE & DORR
60 STATE STREET
BOSTON, MA 02109

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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CONNOLLY BOVE LODGE & HUTZ LLP
SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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APR 28 2006
OFFICE OF PETITIONS

In re Application of	:	
Ko Fujimura	:	
Application No. 10/995,091	:	DECISION ON PETITION
Filed: April 22, 2005	:	
Atty Docket No. 20162-00526-US1	:	

This is a decision on the petition under 37 CFR 1.53(e), filed September 7, 2005, requesting that the USPTO accord the above-identified application a filing date of November 24, 2004. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience.

On November 24, 2004, applicant deposited the above-identified application. On April 7, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice of Incomplete), stating that the application had not been accorded a filing date because the specification did not include at least one claim and that the filing date would be the date of receipt of a complete specification as prescribed by 35 U.S.C. 112. Additionally, the Notice of Incomplete stated that an abstract, pages 46-86 of the specification (description and claims) and Figures 29-38 appeared to have been omitted from the application.

In response, on April 22, 2005, applicant submitted a preliminary amendment, pages 46-52 of the specification, pages 53-84 of the claims, the abstract on page 85, and Figure 29-38. Applicant stated that in response to the Notice of Incomplete, he was relying on the incorporation by reference of parent Application No. 09/372,593, for obtaining a filing date in the present application. Applicant indicated that he was submitting the pages missing from the USPTO

file so that a complete divisional application could undergo examination. Lastly, applicant asserted that he did include a supplemental declaration because no new matter was being added. Thereafter, the Office accorded the above-identified application a filing date of April 22, 2005, the date of applicant's response to the Notice.

On August 9, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, which set two-month extendable period to submit a properly signed oath or declaration covering the newly submitted items.

On September 7, 2005, applicant submitted the present petition, a copy of the Notice of Incomplete, a copy of the preliminary amendment, a copy of a date-stamped postcard receipt acknowledging the receipt of the preliminary amendment and the accompanying appendix in the USPTO on April 22, 2005, and an authorization to charge the Deposit Account for the $400.00 petition fee.[1]

In the present petition, applicant requests:

> … the above-identified divisional application be accorded the original filing date of November 24, 2004, based upon the assertion in the present application that parent Application No. 09/372,593 was fully incorporated by reference, and contained at least one claim. On page 1, line 5 of the present application, it is stated that 'This application is a divisional of U.S. Application No. 09/372,593 filed August 12, 1999 (now allowed), the entire contents of which is fully incorporated herein.'
>
> A copy of the Notice of Incomplete Nonprovisional Application received in connection with this application is enclosed herewith, which states that specification pages were missing and did not include at least one claim. Applicant asserts that the divisional application was filed on November 24, 2004 with a specification, 93 claims and 38 drawings as indicated on the attached postcard. Unfortunately, the entire application was not processed at the Patent Office.

---

[1] On November 15, 2005, applicant submitted a petition for a one-month extension of time (and fee) and a Response to the Notice to File Missing Parts of Nonprovisional Application. On December 8, 2005, applicant filed Response to the Notice to File Missing Parts of Nonprovisional Application, accompanied by an executed Combined Declaration and Power of Attorney.

> Therefore, since parent Application No. 09/372,593 was fully incorporated by reference (and includes the claims for the present application), it is believed that the filing date of November 24, 2004 should be granted. Since no new matter is added, a supplemental declaration is not enclosed.

Petition of September 7, 2005, pp. 1-2.

Initially, the Office notes that it did not receive a copy of any date-stamped postcard receipt with the present petition, establishing that the present divisional application was filed on November 24, 2004, with a specification, 93 claims and 38 drawings.

A review of the record indicates that the above-identified application as originally filed on November 24, 2004, did not include a proper incorporation by reference statement in the specification.

Specifically, as stated in 37 CFR 1.57(b)(1), an incorporation by reference statement must appear in the specification and must "[e]xpress a clear intent to incorporate by reference by using the root words 'incorporat(e)' and 'reference' (*e.g.*, 'incorporate by reference')." However, in the present application, the first line of the specification reads: "This application is a divisional of U.S. Application No. 09/372,593 filed August 12, 1999 (now allowed), the entire contents of which is fully incorporated herein." The attempt to incorporate subject matter into this application by reference to Application No. 09/372,593, filed August 12, 1999, is ineffective because the root word "reference" has been omitted. See 37 CFR 1.57(b)(1).[2]

"An incorporation by reference that does not comply with 37 CFR 1.57(b), (c), or (d) is not effective to incorporate such material unless corrected within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier." 37 CFR 1.57(g).

---

[2] "37 CFR 1.57(b)(1) limits a proper incorporation by reference (except as provided in 37 CFR 1.57(a)) to instances only where the perfecting words "incorporated by reference" or the root of the words "incorporate" (e.g., incorporating, incorporated) and "reference" (e.g., referencing) appear." MPEP 608.01(p)(I)(A). "The requirement for specific root words will bring greater clarity to the record and provide a bright line test as to where something is being referred to is an incorporation by reference." Id.

"37 CFR 1.57(g)(1) authorizes the correction of noncompliant incorporation by reference statements that do not use the root of the words 'incorporate' and 'reference' in the incorporation by reference statement." MPEP 608.01(p)(I)(A). "This correction cannot be made when the material was merely referred to and there was no clear specific intent to incorporate it by reference." Id.

The incorporation by reference statement will not be effective until a correction is made to comply with 37 CFR 1.57(b). For this reason, the petition is **dismissed**.

It is clear that applicant specifically intended to incorporate the prior application by reference. Accordingly, applicant must file a "Renewed Petition under 37 CFR 1.53(e)" and an amendment pursuant to 37 CFR 1.57(g) to correct the specification to include the root word "reference" in compliance with 37 CFR 1.57(b) within **TWO MONTHS** of the date of this decision. This **TWO MONTH** period is not extendable under 37 CFR 1.136(a) or (b). No petition fee is necessary for filing the renewed petition.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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SUITE 800
1990 M STREET NW
WASHINGTON DC 20036-3425

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JUL 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Ko Fujimura	:	
Application No. 10/995,091	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Atty Docket No. 20162-00526-US1	:	

This is a decision on the renewed petition under 37 CFR 1.53(e), filed June 19, 2006, requesting that the USPTO accord the above-identified application a filing date of November 24, 2004.

On November 24, 2004, applicant deposited the above-identified application. On April 7, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (Notice of Incomplete), stating that the application had not been accorded a filing date because the specification did not include at least one claim and that the filing date would be the date of receipt of a complete specification as prescribed by 35 U.S.C. 112. Additionally, the Notice of Incomplete stated that an abstract, pages 46-86 of the specification (description and claims) and Figures 29-38 appeared to have been omitted from the application.

In response, on April 22, 2005, applicant submitted a preliminary amendment, pages 46-52 of the specification, pages 53-84 of the claims, the abstract on page 85, and Figure 29-38. Applicant stated that in response to the Notice of Incomplete, he was relying on the incorporation by reference of parent Application No. 09/372,593, for obtaining a filing date in the present application. Applicant indicated that he was submitting the pages missing from the USPTO file so that a complete divisional application could undergo examination. Lastly, applicant asserted that he did include a supplemental declaration because no new matter was being added.

Thereafter, the Office accorded the above-identified application a filing date of April 22, 2005, the date of applicant's response to the Notice.

On August 9, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted, which set two-month extendable period to submit a properly signed oath or declaration covering the newly submitted items.

On September 7, 2005, applicant submitted the initial petition, a copy of the Notice of Incomplete, a copy of the preliminary amendment, a copy of a date-stamped postcard receipt acknowledging the receipt of the preliminary amendment and the accompanying appendix in the USPTO on April 22, 2005, and an authorization to charge the Deposit Account for the $400.00 petition fee.[1]

On April 28, 2006, the Office dismissed the petition because applicant did not include a proper incorporation by reference statement in the specification. The decision required applicant to file a "Renewed Petition under 37 CFR 1.53(e)" and an amendment pursuant to 37 CFR 1.57(g) to correct the specification to include the root word "reference" in compliance with 37 CFR 1.57(b) within **TWO MONTHS** of the date of the decision.

On June 19, 2006, applicant filed the present renewed petition accompanied by an amendment pursuant to 37 CFR 1.57(g), correcting the specification to include the root word "reference."

Accordingly, the renewed petition is **granted**. The application will be accorded a filing date of November 24, 2004.

The Office of Initial Patent Examination is directed to correct the filing date of the above-identified application to November 24, 2004, and mail a corrected filing receipt.

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[1] On November 15, 2005, applicant submitted a petition for a one-month extension of time (and fee) and a Response to the Notice to File Missing Parts of Nonprovisional Application. On December 8, 2005, applicant filed Response to the Notice to File Missing Parts of Nonprovisional Application, accompanied by an executed Combined Declaration and Power of Attorney.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JUL 10 2009

OFFICE OF PETITIONS

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

In re Application of :
Nabila Baba-Ali :
Application No. 10/995,092 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. 1857.3290000

This is a decision on the petition, filed July 9, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 16, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH A. TABE
SUITE 2010
11700 OLD COLUMBIA PIKE
SILVER SPRING, MD 20904

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DEC 29 2009

OFFICE OF PETITIONS

In re Application of :
Joseph A. Tabe :
Application No. 10/995,093 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. :

This is in response to the communication, filed October 7, 2009, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 6, 2009.

DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record discloses that the Notice of Allowance and issue Fee(s) due was mailed on June 17, 2009 requiring fee of $1055 (i.e. $755 for the issue fee and $300 for the publication fee). On September 17, 2009 the USPTO received the issue fee payment of $755 with a credit card authorization as required by the Notice mailed June 17, 2009. However, the Office did not receive the required publication fee of $300 as required by the Notice. Since the fees received were insufficient and no extensions of time under 1.136(a) were available, the application became abandoned by operation of law on September 18, 2009.

Therefore, the petition to withdraw the holding of abandonment is **dismissed**. A copy of the June 17, 2009 Office action accompanies this decision for petitioner's convenience.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

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

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$810.00 for a small entity**;

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

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the $810.00 petition fee.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30 AM to 5:30 PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

If petitioner intends to file a renewed petition or in the alternative filed a petition under

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." *See* 37 CFR 1.181(f).

If petitioner intends to filed a renewed petition to withdraw the holding of abandonment or in the alternative a petition to revive this application, petition must be accompanied by the required publication fee of $300.

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

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

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

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

Telephone inquiries related to this decision may be directed to the April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/dab/
David Bucci
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement; and a copy of the Office action dated June 17, 2009.

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

NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 06/17/2009

Joseph A. Tabe
Suite 2010
11700 Old Columbia Pike
Silver Spring, MD 20904

EXAMINER
WALK, SAMUEL J

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 06/17/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/995,093	11/24/2004	Joseph A. Tabe		7545

TITLE OF INVENTION: VEHICLE INTERACTIVE ELECTRONIC WIRELESS AIR PRESSURE SYSTEM'S INFORMATION: "VIEW A PSI"

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	09/17/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571)-273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 06/17/2009

Joseph A. Tabe
Suite 2010
11700 Old Columbia Pike
Silver Spring, MD 20904

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/995,093	11/24/2004	Joseph A. Tabe		7545

TITLE OF INVENTION: VEHICLE INTERACTIVE ELECTRONIC WIRELESS AIR PRESSURE SYSTEM'S INFORMATION: "VIEW A PSI"

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$755	$300	$0	$1055	09/17/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
WALK, SAMUEL J	2612	340-442000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent) : ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**
- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)
- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.
- ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/995,093	11/24/2004	Joseph A. Tabe		7545

7590 06/17/2009

Joseph A. Tabe
Suite 2010
11700 Old Columbia Pike
Silver Spring, MD 20904

EXAMINER
WALK, SAMUEL J

ART UNIT	PAPER NUMBER
2612	

DATE MAILED: 06/17/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b)
(application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 813 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 813 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (http://pair.uspto.gov).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

PTOL-85 (Rev. 08/07) Approved for use through 08/31/2010.

Notice of Allowability	Application No.	Applicant(s)	
	10/995,093	TABE, JOSEPH A.	
	Examiner	Art Unit	
	SAMUEL J. WALK	2612	

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

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to *1/21/2009*.

2. ☒ The allowed claim(s) is/are *Claims 1-7, 9-13, 16-18, 20-24, 27-30, 33-36, 39, 42, 50-51, 52, 54-58, 69-84, 86-94*.

3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
   a) ☐ All b) ☐ Some* c) ☐ None of the:
      1. ☐ Certified copies of the priority documents have been received.
      2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
      3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

   * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.

5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
   (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
   (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.

   Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).

6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____ .
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Joseph Tabe on 03/17/2009.

The application has been amended as follows:

***

5. VIEW A PSI apparatus of claim 1, wherein said detection means is configured within a closed system, whereby said closed system further comprises at least one of an assembled vehicle tire and[/or] a closed flow line.

6. VIEW A PSI apparatus of claim 1, wherein said communication means further comprising means for transmitting and receiving analog [and/]or digital signals of varying frequencies.

7. VIEW A PSI of claim 1, wherein said nano-sensors in said nanotechnology applications further include at least a MEMS and[/or] at least an RFID chip.

11. VIEW A PSI apparatus of claim 10, wherein the plurality sensors further comprises [at least] micro-sensor elements comprising ~~at least one of(,);~~ MEMS~~, infrared,~~

~~and/~~or an RFID chip, and wherein at least said ~~one~~ micro-sensor is configured with means to communicate audio/visual indication of said detection of said contextual characteristics.

36. VIEW A PSI apparatus of claim 35, wherein said transistorized switch means further comprising means for effectively elevating the electrical characteristic level of at least a first[/second] material for the closed system, and wherein said elevation of said electrical characteristics further includes at least one of the applications of resonant frequency, harmonic spectra, and [at least] a Q factor.

70. VIEW A PSI apparatus of claim 69, wherein said silicon substrate is etched/fused in at least a micro-fibered material to enable at least ~~(a)~~ an effective detection platform.

85. VIEW A PSI apparatus of claim 72, wherein said processing means further comprises at least one of a receiving means and[/or] a transmitting means.

88. VIEW A PSI apparatus of claim 13, wherein said communication means further includes at least one of a receiving means and[/or] a transmitting means, including at least an RFID chip operatively configured with an FM receiver.

Claims 40-41 and 95-96 have been cancelled.

***

Allowable Subject Matter

2. The following is an examiner's statement of reasons for allowance: Claims 1-7, 9-13, 16-18, 20-24, 27-30, 33-36, 39, 42, 50-51, 52, 54-58, 69-84, 86-94 have been found to be novel and inventive because prior art fails to show or teach a sensor means embedded in a silicon substrate and etched/fused in a micro-fibered material in communication with a detection platform wherein the detection platform comprises an interactive monitoring means operatively configured to relay to a communication means.. Again, the closest prior art is US Patent # 7,271,720 owned by the same inventor and published less than one year from this application's effective filing date.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SAMUEL J. WALK whose telephone number is (571)272-2960. The examiner can normally be reached on M-F: 8:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Davetta Goins can be reached on (571)-272-2957. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

SJW

/Davetta W. Goins/
Primary Examiner, Art Unit 2612

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 A. TABE
SUITE 2010
11700 OLD COLUMBIA PIKE
SILVER SPRING, MD 20904

MAILED

MAY 24 2010

OFFICE OF PETITIONS

In re Application of Joseph A. Tabe Application No. 10/995,093 Filed: November 24, 2004 Attorney Docket No.	: : : : :	ON PETITION

This is in response to the renewed petition, filed February 25, 2010, to revive the above-identified application, which is being treated as a petition under the unintentional provisions of 37 CFR 1.137(b), to revive the above identified application.

The petition is **DISMISSED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before September 17, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 6, 2009.

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

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $810.
The petition in the above identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee has been received.

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

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

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

By 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 April M. Wise at 571-272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6-29-07

TO SPE OF : **Technology Center** 3683 10/995098

SUBJECT : Request for Certificate of Correction on Patent No.: 7219576 B2

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

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

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

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

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

Thank You For Your Assistance

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

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

Note your decision on the appropriate box.

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

Comments:

_____

_____

_____

_____

_____

Robert A Siconolfi — **SPE**

3683 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4/2/08

TO SPE OF : ART UNIT 2821

SUBJECT : Request for Certificate of Correction on Patent No.: 6949891

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:
Correction of inventorship in a patent requires the submission of a petition in compliance with CFR 1.324.

Douglas E. Owen
SPE

2821
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DATE: April 2, 2009
TO: Certificates of Correction Branch
FROM: Douglas W. Owens
SPE, Art Unit 2821
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 6,949,891 as specified on the attached Certificate.

Douglas W. Owens

Douglas W. Owens, SPE
Art Unit 2821

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 6,949,891
Patented: September 27, 2005

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Atsuko SHIMIZU
Takayuki UEMURA

Douglas W. Owens
Supervisory Patent Examiner
Art Unit 2821

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 4/1/08

TO SPE OF : ART UNIT 3733

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/995117 Patent No: 7300399 B2

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

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

VIRGINIA TOLBERT
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: Approved.

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

JUL - 3 2008

Paper No. 20080623

F. Leslie Bessenger, III
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of:	:	
GIBBS, Phillip	:	
Application No. 10/995,118	:	DECISION ON PETITION
Filed: November 24, 2004	:	37 CFR 1.313(a)
Attorney Docket No. 09524.0005	:	

This is a decision on the petition under 37 CFR 1.313(a) filed June 3, 2008, to withdraw the above-identified application from issue.

The petition is **denied**.

A Notice of Allowance and Issue Fee Due was mailed on March 7, 2008, setting a non-extendable three-month statutory period to pay the issue fee.

Petitioner requests the withdrawal of the above-identified application from issue for consideration of an Information Disclosure Statement (IDS) filed with the petition.

STATUTE, REGULATION AND PROCEDURE

35 U.S.C. 151 states in pertinent part:

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.

37 C.F.R. 1.313(a) states in pertinent part:

(a) 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. 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. If the Office withdraws the application from issue, the Office will issue a new notice of allowance if the Office again allows the application.

M.P.E.P. 1308 states in pertinent part:

I. A. - If the applicant wishes to have an application withdrawn from issue, he or she must petition the Director under 37 CFR 1.313(a) or file 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). A submission may be an information disclosure statement (37 CFR 1.97 and 1.98) or an amendment. The RCE practice does not apply to utility or plant applications filed before June 8, 1995 and design applications. See MPEP § 706.07(h), subsections I, II and IX. If an applicant files a RCE (with the fee and a submission), the applicant need not pay the issue fee to avoid abandonment of the application. Applicants are cautioned against filing a RCE prior to payment of the issue fee and subsequently paying the issue fee (before the Office acts on the RCE) because doing so may result in issuance of a patent without consideration of the RCE (if the RCE is not matched with the application before the application is processed into a patent). Petitions under 37 CFR 1.313(a) to have an application withdrawn from issue should be directed to the Technology Center (TC) Director to which the application is assigned (see MPEP § 1002.02(c)). Unless applicant receives a written communication from the Office that the application has been withdrawn from issue, the issue fee must be timely submitted to avoid abandonment. Applicant may also file a continuing application on or before the day the issue fee is due and permit the parent application to become abandoned for failure to pay the issue fee (35 U.S.C. 151).

OPINION

Petitioner requests withdrawal of the above-identified application from issue for consideration of an IDS that was filed after the mailing date of the notice of allowance.[1] A review of the petition reveals that it lacks a showing of good and sufficient reasons why withdrawal of the allowed application is necessary as required under 37 CFR 1.313(a). Petitioner only requests that the IDS filed concurrently with the instant petition

[1]It is noted that consideration of an IDS filed after the mailing date of a notice of allowance is provided for under 37 CFR 1.97(d). Compliance with the requirements of 37 CFR 1.97(d) is essential for having information considered at this advanced stage of prosecution. See MPEP 609.

be considered. However, the mere citation of prior art is an inadequate showing to establish good and sufficient reasons for withdrawal of the application from issue.

For the above stated reason, the petition is **denied**.

While it is regretted that the petition was not timely matched with application such that a decision could have been rendered prior to the expiration of the three-month statutory period for paying the issue fee, the issue fee must have been timely submitted to avoid abandonment of the application. See 35 U.S.C. 151 and MPEP 1308.

Inquiries regarding this decision should be directed to Gregory J. Toatley, Jr., Supervisory Patent Examiner, 571-272-2059.

Sharon Gibson, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNERLLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application of	:	
Phillip R. Gibbs	:	
Application No.: 10/995,118	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No: 09524.0005	:	

COPY MAILED
AUG 2 9 2008

This is a decision on the petition under 37 CFR §1.137(b), filed July 21, 2008,

The petition is **DISMISSED**.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due, mailed March 7, 2008, which set a 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 June 8, 2008. A Notice of Abandonment was mailed on July 28, 2008.

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.

A review of the application file history reveals that a Notice of Allowance and Issue Fee Due was mailed on March 7, 2008; on June 3, 2008, a petition to withdraw the application from issue was filed for consideration of an Information Disclosure Statement. The issue fee, or other appropriate response was due on, or before, June 7, 2008. The issue fee was not paid and the application became abandoned on June 8, 2008. On July 3, 2008, the petition to withdraw the application from issue was dismissed because it was determined that it was not necessary to withdraw the application from issue to consider prior art. The instant petition under 37 CFR 1.137(b) was filed on July 21, 2008, arguing that the issue fee was not paid because of irregularities that occurred in petitioner's docketing system.

Section 711.03(c) of the Manual of Patent Examining Procedure provides, in pertinent part, that:

> The legislative history of Public Law 97-247, § 3, 96 Stat. 317 (1982), 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 [the requisite fee] 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." H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. A delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 CFR 1.137(b).
>
> 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).

It is noted that petitioner states that irregularities in the docketing system resulted in the issue fee not being paid. However, in light of the application history, petitioner is required to provide more information as to the docketing irregularities that resulted in non-payment of the issue fee and how the delay in paying the issue fee was unintentional. Petitioner should address the concern that petitioner may have intentionally delayed paying the issue fee assuming that the application would be withdrawn from issue.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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In re Application of

Phillip R. Gibbs

Application No. 10/995,118

Filed: November 24, 2004

Attorney Docket No. 09524.0005

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), October 29, 2008, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $1,440.00 and the publication fee of $300.00 as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed March 7, 2008. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on June 8, 2008. A Notice of Abandonment was mailed on July 28, 2008.

The issue fee, publication fee, and Form PTOL-85-b were received on July 21, 2008.

The application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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OFFICE OF PETITIONS

In re Application of	:	
Satoshi Ito	:	
Application No. 10/995,123	:	DECISION ON APPLICATION
Filed: November 24, 2004	:	FOR
Atty Docket No. 02860.0858	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR CORRECTION OF PATENT TERM ADJUSTMENT," filed May 11, 2006. Applicant requests correction of the patent term adjustment from zero (0) days to twenty-one (21) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein.**

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 **twenty-one (21) days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On February 14, 2006, the Office mailed the 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 is zero (0) days. In response, applicant timely[1] filed the instant request for reconsideration of the patent term adjustment, accompanied by an authorization to charge the Deposit Account for the $200.00 fee set forth in 37 CFR 1.18(e).

---

[1] PALM Records indicate that the Issue Fee payment was received on May 11, 2006.

Applicant requests that the patent term adjustment be corrected to twenty-one (21) days. Applicant asserts that the Office's delay pursuant to 37 CFR 1.703(a)(1) should be calculated as twenty-one (21) days, not zero (0) days. Applicant states that the present application was allowed as filed and that applicant did not receive any Office actions prior to the Notice of Allowance, mailed on February 14, 2006. Further, applicant asserts that no other correspondence was filed with the Office after the filing of the application on November 24, 2004.

Applicant states that the patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of zero (0) days is incorrect. Pursuant to 37 CFR 1.703(a)(1), the period of adjustment of patent term due to the failure of the Office to take action within a specified time frame is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first[.]

Applicant filed the above-identified application on November 24, 2004. Thereafter, the Office mailed a Notice of Allowance under 35 U.S.C. 151 on February 14, 2006. Thus, the period of adjustment is twenty-one (21) days, the number of days in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), January 25, 2006, and ending on the date of mailing of the Notice of Allowance under 35 U.S.C. 151, February 14, 2006.

In view thereof, the period of adjustment for Office delay at the time of the mailing of the Notice of Allowance is **twenty (21) days**.

The $200.00 fee set forth in 37 CFR 1.18(e) will be charged to Deposit Account No. 06-0916, as authorized in the petition. No additional fee is required.

Applicant is reminded that any days of delay for Office issuance of the patent more than three (3) years after the filing date of the application which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b)(1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Fujitsu Patent Center
C/O CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Yoichi Sato	: DECISION ON REQUEST FOR
Patent Number	: 7633250	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,189	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1186** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 8910
RESTON, VA 20195

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Takuya Tsuda, et al. :
Application No. 10/995,196 : DECISION ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. 12480-000078/US :

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

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before February 14, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed November 14, 2008. Accordingly, the date of abandonment of this application is February 15, 2009.

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

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

The drawings have been approved by the USPTO draftsperson.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at 571-272-4100.

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

April M. Wise
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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/10/2010

Applicant	: Joonsuk Kim	: DECISION ON REQUEST FOR
Patent Number	: 7660362	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,212	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

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FEB 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Theodor Baumann	:	
Application No. 10/995,218	:	NOTICE
Filed: November 24, 2004	:	
Attorney Docket No. 4632-0114PSU1	:	

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

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

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

Inquiries related to this communication should be directed to the Office of Petitions Staff at (703) 305-9285.

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

Wan Layman

Wan Layman
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/995,242	11/24/2004	Takuya Ito	040894-7135	7318

9629 7590 02/20/2010
MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON, DC 20004

EXAMINER
NGUYEN, ANTHONY H

ART UNIT	PAPER NUMBER
2854	

MAIL DATE	DELIVERY MODE
02/20/2010	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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

In re Application of:	:	
	:	NOTICE OF WITHDRAWAL
ITO, TAKUYA	:	FROM ISSUE
Application No. **10/995242**	:	UNDER 37 CFR δ 1.313
Filed: November 24, 2004	:	
Attorney Docket No. **040894-7135**	:	

The purpose of this communication is to inform you that the above identified application is being withdrawn from issue pursuant to 37 CFR δ 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed September 25, 2009, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

If the issue fee has been submitted, the applicant may request a refund, or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Judy Nguyen at (571) 272-2258.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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WASHINGTON DC 20036-5339

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OFFICE OF PETITIONS

In re Application of	:	
Mayumi Kakuta et al	:	
Application No. 10/995,247	:	DECISION GRANTING PETITION
Filed: November 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 026035-00014	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 30, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on June 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1796 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed *.

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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OFFICE OF PETITIONS

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

In re Application of	:	
HASHIMOTO, Shin-Ichi et al.	:	
Application No. 10/995,266	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. **00005.001315**	:	FROM RECORD
	:	

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 04, 2007.

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

A review of the file record indicates that the power of attorney to NIXON & VANDERHYE, PC has been revoked by the assignee of the patent application on May 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 1100
777-6th Street, NW
Washington, DC 20001

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OFFICE OF PETITIONS

In re Application of	:	
Ian John Youngs	:	
Application No. 10/995,303	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. QINE-001/00US 305926-2001	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 29, 2007.

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

A review of the file record indicates that the power of attorney to Cooley Godward Kronish LLP has been revoked by the assignee of the patent application on June 26, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **McDonnell Boehnen Hulbert & Berghoff LLP**
300 S. Wacker Drive
32nd Floor
Chicago, IL 60606

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Date: 04/18/08

Patent No. : 7319195 B2
Ser. No. : 10/995,333
Inventor(s) : KOHAYASHI, SHUICHI
Issued : 01/15/08
Title : **COMPOSITE CONDUCTOR, SUPERCONDUCTIVE APPARATUS SYSTEM, AND COMPOSITE CONDUCTOR MANUFACTURING METHOD**
Docket No. : **121879**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703)-305-5358 or (703) 308-9390 #112

OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA VA 22320-4850

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OFFICE OF PETITIONS

In re Patent No. 7,319,195	:	
Issue Date: January 16, 2008	:	
Application No. 10/995,333	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 121879	:	

This is a decision on the petition under 37 CFR 1.183 filed April 28, 2008, which is being treated as (1) a petition under 37 CFR 3.81(b) to accept the correction of the assignee on the front page of the above-identified patent and (2) a petition under 37 CFR 1.182 to reprint the assignee's name on the front page of the Letters Patent.

The petition under 37 CFR 3.81(b) to correct the assignee's name is **GRANTED**.

The petition under 37 CFR 1.182 to reprint the front page of the Letters Patent is **GRANTED**.

Petitioner is advised that it is the practice of the U. S. Patent and Trademark Office (USPTO) to issue a certificate of correction to correct an error on the part of an application in those cases where the assignee or attorney data is incorrect or was inadvertently not provided at the time of payment of the issue fee or the inventor's name is misspelled or otherwise incorrect. Note 37 CFR 1.323 and MPEP 1482 (35 U.S.C. 255), which states:

> "Whenever a mistake of a clerical or typographical nature, or of minor character, which was not the fault of the Patent and Trademark Office, appears in a patent and a showing has been made that such mistake occurred in good faith, the Commissioner may, upon payment of the required fee, issue a certificate of correction, if the correction does not involve such changes in the patent as would constitute new matter or would require re-examination. Such patent, together with the certificate, shall have the same effect and operation in law on the trial of actions for causes thereafter arising as if the same had been originally issued in such correct form."

In view of the above, and since the desired correction of the assignee's name can be effected by way of a certificate of correction, it is unnecessary to reprint the front page of the Letters Patent.

However the USPTO will reprint the front page of the Letters Patent if the following conditions are met:

1. Submission of a petition under 37 CFR 1.182
2. Payment of a $400 petition fee
3. Payment of a $100 fee to place a certificate of correction in the USPTO archives

Since petitioner has met the conditions noted above, the front page of the Letters Patent will be reprinted to include the assignee's name.

Petitioner is advised that the reprinted Letters Patent granted by this petition is the only one which will reflect the correction of the assignee's name on the front page. All other copies of the patent will reflect the correction of the assignee's name by the presence of a certificate of correction in Office records.

The file is being referred to the Certificates of Correction Branch for appropriate processing of a certificate of correction to be placed in the archives of the USPTO and for reprinting the front page of the original Letters Patent.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Niomi Farmer in the Office of Data Management at (703) 308-9250, Ext. 129.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, South Tower, 8th Floor, Room C23 (Fax No. (571) 270-9753

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United States Patent and Trademark Office
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LISA A. HAILE, J.D., Ph.D.
DLA PIPER LLP.
Suite 1100
4365 Executive Drive
San Diego, CA 92121-2133

Mail Date: 04/21/2010

Applicant	: Robert J. Harrison	: DECISION ON REQUEST FOR
Patent Number	: 7585942	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DICKSTEIN SHAPIRO LLP
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(6TH AVENUE)
NEW YORK NY 10036-2714

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OFFICE OF PETITIONS

In re Application of	:	
Yamao, et al.	:	
Application No. 10/995,345	:	DECISION
Filed: 24 November, 2004	:	
Attorney Docket No. X2007.0180	:	

This is a decision on the petitions filed on 20 August, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

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

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a Notice of Non-Compliant Amendment (the Notice) mailed on 6 December, 2007, with reply due absent extension of time on or before 6 January, 2008.

The application went abandoned by operation of law after midnight 6 January, 2008.

The Office mailed a Notice of Abandonment on 24 July, 2008.

On 20 August, 2008, Petitioner filed a petition and averred non-receipt of the Notice of Non-Compliant Amendment and provided a statement of search and a statement by Henrietta Marron (Ms. Marron) of his office and a copy of 6 January and 6 June, 2008, due date calendars, but did not satisfy the requirements set out in the Commentary at MPEP §711.03(c)(I) to the extent that the record does not show all of the information nor is there a complete description of the docketing system set forth in that discussion, which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

[1] *See*: MPEP §711.03(c) (I)(A).

***

And the documentary showing does not at this writing include a copy of the docket record (or file jacket cover) for the instant application.

Thus, Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I)—to which Petitioner's attention always is drawn in these matters.

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 that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay

[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).

under 37 C.F.R. §1.137(b). (See:
http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

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

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

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

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

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[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Yamao, et al.	:	
Application No. 10/995,345	:	DECISION
Filed: 24 November, 2004	:	
Attorney Docket No. X2007.0180	:	

This is a decision on the petitions filed on 16 January, 2009, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I)—*and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)*

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to a Notice of Non-Compliant Amendment (the

Notice) mailed on 6 December, 2007, with reply due absent extension of time on or before 6 January, 2008.

The application went abandoned by operation of law after midnight 6 January, 2008.

The Office mailed a Notice of Abandonment on 24 July, 2008.

On 20 August, 2008, Petitioner filed a petition and averred non-receipt of the Notice of Non-Compliant Amendment and provided a statement of search and a statement by Henrietta Marron (Ms. Marron) of his office and a copy of 6 January and 6 June, 2008, due date calendars, but did not satisfy the requirements set out in the Commentary at MPEP §711.03(c)(I) to the extent that the record does not show all of the information nor is there a complete description of the docketing system set forth in that discussion, which provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

Because the documentary showing at that time did not include a copy of the docket record (or file jacket cover) for the instant application, and Petitioner failed to support the petition properly consistent with the express requirements set forth in the Commentary at MPEP §711.03(c)(I), the petition was dismissed on 8 December, 2008.

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[1] *See*: MPEP §711.03(c) (I)(A).

On 16 January, 2008, Petitioner filed a petition averred non-receipt of the Notice of Non-Compliant Amendment and provided a statement of search and a statement by Ms. Marron, a copy of 6 January and 6 June, 2008, due date calendars, and then set forth an effort to satisfy the requirements set out in the Commentary at MPEP §711.03(c)(I), including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability (and, as previously indicated, support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket). Petitioner also filed a reply in the form of an amendment, which is forwarded to the Technology Center/AU for processing in due course.

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 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]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

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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).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 24 July, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2837 for further processing as necessary in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should 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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ALEXANDRIA, VA 22304

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AUG 20 2007

OFFICE OF PETITIONS

In re Application of

MITRA, Shanker Kumar et al.
Application No. 10/995,369
Filed: November 24, 2004
Attorney Docket No. **LEXO0012U-US**

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 06, 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 Richard Neifeld on behalf of all attorneys of record who are associated with customer No. 31518. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SHANKAR KUMAR MITRA**
THE HIMALAYA DRUG COMPANY, MAKALI
BANGALORE, 562-123
INDIA

cc: **RAJ S. DAVE, PH.D**
DARBY & DARBY P.C.
1500 K. STREET, N.W.
SUITE 250
WASHINGTON, D.C. 20005-1714

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
10/995,369	11/24/2004	Shanker Kumar Mitra	

CONFIRMATION NO. 7563

OC000000025448076

31518
NEIFELD IP LAW, PC
4813-B EISENHOWER AVENUE
ALEXANDRIA, VA 22304

Date Mailed: 08/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/06/2007.

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

Michelle R. Dixon

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

FORMER ATTORNEY/AGENT COPY

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LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

Mail Date: 04/20/2010

Applicant	: Wataru Ishikawa	: DECISION ON REQUEST FOR
Patent Number	: 7604343	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,400	: 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 **1056** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, Virginia 22313-1450
www.uspto.gov

LUCAS & MERCANTI, LLP
475 PARK AVENUE SOUTH
15TH FLOOR
NEW YORK, NY 10016

Mail Date: 05/17/2010

Applicant : Wataru Ishikawa
Patent Number : 7604343
Issue Date : 10/20/2009
Application No : 10/995,400
Filed : 11/23/2004

: 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 **1160** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. 092007

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON, D.C. 2004-2128

SEP - 6 2007

In re Application of:	:	
Christopher Dillon	:	PETITION FOR CORRECTION OF
Serial No.: 10/995,424	:	INVENTORSHIP
Filed: November 4, 2006	:	UNDER 37 CFR § 1.48(a)
Attorney Docket No.: 032304-8	:	

This is a decision on the petition filed January 26, 2006 to correct inventorship under 37 CFR 1.48(a).

The petition is granted.

In view of the papers filed January 26, 2006 it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by adding the name:

Ping Chin

The application will be forwarded to the Certificate of Correction Branch for correction to reflect the inventorship as corrected.

Paula A. Bradley
Supervisory Patent Examiner,
Art Unit 2833

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE

Patent No. 7,070,483 Patented: July 4, 2006

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without any deceptive intent, improperly sets forth the inventorship.

Accordingly, it is hereby certified that the correct inventorship of this patent is: Christopher Dillon, Farmington Hill, Michigan; Ping Chin, West Bloomfield, Michigan;

Signed and Sealed this Fifth Day of September 2007.

Paula A. Bradley
Supervisory Patent Examiner
Art Unit 2833

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 28, 2007

TO SPE OF : ART UNIT 2833 Paula A. Bradley

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/995,424 Patent No.: 7070438 B2

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

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

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

Antonio Johnson

Certificates of Correction Branch

703-308-9390 ext. 111

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

P. AUSTIN BRADLEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800
SPE

2833
Art Unit

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DIRECTORS OFFICE
AUG 21 2006
TECHNOLOGY CENTER 2800

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005-1202

In re Application of: Gil
Application No. 10/995,431
Filed: 11/24/2004
For: DEVICE FOR DETECTION OF POWER-OFF

DECISION ON PETITION
UNDER 37 C.F.R. §1.181

This is a decision on the petition filed June 19, 2006 requesting the withdrawal of the drawing correction requirement made in the last office action to label Figure 1 as "Prior Art".

The petition is GRANTED.

A careful review of the record reveals that Figure 1 as originally filed is described in the specification as being a "typical" power supply device. No indication is seen in the disclosure that the device of Figure 1 is considered by the applicant to be prior art. Therefore, in view of the subject disclosure and the Petitioner's arguments, the requirement made in the office action of June 08, 2006 to label the subject figure "Prior Art" is hereby withdrawn.

Robert J. Oberleitner, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 23 2009

OFFICE OF PETITIONS

In re Patent No. 7,421,114	:	
Jonathan Brandt	:	DECISION ON
Issue Date: September 2, 2008	:	REQUEST FOR
Application No. 10/995,461	:	RECONSIDERATION OF
Filed: November 22, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 07844-672001 / P626	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705d," filed November 3, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from six hundred and four (604) days to seven hundred and twenty-two (722) days.

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

On September 2, 2008, the above-identified application matured into US Patent No. 7,421,114 with a patent term adjustment of 604 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.[1] See 37 C.F.R. § 1.705(d).

Patentees request recalculation of the patent term adjustment to include an "A Delay" of 604 days[2] and a "B Delay" of 118 days[3]

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[1] It is noted that November 2, 2008 fell on a Sunday.

[2] The "A Delay" of 604 days is calculated based on the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1). A first non-final Office action was mailed on September 18, 2007, 14 months and 604 days after the application was filed on November 22, 2004. The Office is in agreement with this period of Office delay.

[3] The B Delay of 118 days is calculated based on the application having been filed under 35 U.S.C. § 111(a) on November 22, 2004, and a request for

for a total patent term adjustment of 722 days. Citing Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), patentees maintain that the Office has erred in only giving credit for the larger of the "A Delay" or "B Delay," and thus, issuing the patent with a patent term adjustment of 604 days.

Patentees' argument has been considered, but not found persuasive. The patent term adjustment was properly calculated. The Office did not simply give the greater period of 604 days. Rather, the Office determined that the 118 days for Office delay pursuant to §1.702(b)(B delay) overlapped with the 604 days accorded pursuant to 1.702(a)(1)(A delay), and thus, at issuance, no additional days of adjustment were entered for Office delay in issuance of the patent. The Office delay was limited to the actual number of days issuance of the patent was delayed, 604 days. As there was no applicant delay, the patent issued with a patent term adjustment of 604 days (604 days of Office delay reduced by 0 days of applicant delay).

This calculation is consistent with the statute, rules and interpretation thereof by the Office. 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

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continued examination (RCE) having been filed in this application on March 19, 2008, three years and 118 days later. The Office is in agreement that the three-year period is 118 days.

term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

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

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not

just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §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[4]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap"

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[4] 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).

under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, November 22, 2004, until the filing of the RCE on March 19, 2008 (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). 604 days of patent term adjustment were accorded prior to the filing of the RCE for the Office failing to respond within a specified time frame during the pendency of the application[5]. All of the 118 days for Office delay in issuing the patent overlap with this 604 days of Office delay. 604 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 118 days over three years as of the filing of the RCE.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

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

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 Paul Shanoski, Senior Attorney, at (571) 272-3225.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[5] There was no Office delay subsequent to the filing of the RCE.

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[6] (AIPA) provides that:

> ADJUSTMENT OF PATENT TERM. –
>
> (1) PATENT TERM GUARANTEES. –
>
> (A) GUARANTEE OF PROMPT PATENT AND TRADEMARK OFFICE RESPONSES. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the Patent and Trademark Office to –
>
> (i) provide at least one of the notifications under section 132 of this title or a notice of allowance under section 151 of this title not later than 14 months after –
>
> (I) the date on which an application was filed under section 111(a) of this title; or
>
> (II) the date on which an international application fulfilled the requirements of section 371 of this title;
>
> (ii) respond to a reply under section 132, or to an appeal taken under section 134, within 4 months after the date on which the reply was filed or the appeal was taken;
>
> (iii) act on an application within 4 months after the date of a decision by the Board of Patent Appeals and Interferences under section 134 or 135 or a decision by a Federal court under section 141, 145, or 146 in a case in which allowable claims remain in the application; or
>
> (iv) issue a patent within 4 months after the date on which the issue fee was paid under section 151 and all outstanding requirements were satisfied, the term of the patent shall be extended 1 day for each day after the end of the period specified in clause (i), (ii), (iii), or (iv), as the case may be, until the action described in such clause is taken.
>
> (B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY. – Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

[6] Public Law 106-113, 113 Stat. 1501, 1501A-557 through 1501A-560 (1999).

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

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

(C) GUARANTEE OR ADJUSTMENTS FOR DELAYS DUE TO INTERFERENCES, SECRECY ORDERS, AND APPEALS. — Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to —

(i) a proceeding under section 135(a);

(ii) the imposition of an order under section 181; or

(iii) appellate review by the Board of Patent Appeals and Interferences or by a Federal court in a case in which the patent was issued under a decision in the review reversing an adverse determination of patentability, the term of the patent shall be extended 1 day for each day of the pendency of the proceeding, order, or review, as the case may be.

(2) LIMITATIONS. —

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

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

(a) Failure to take certain actions within specified time frames. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be

adjusted if the issuance of the patent was delayed due to the failure of the Office to:

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

(2) Respond to a reply under 35 U.S.C. 132 or to an appeal taken under 35 U.S.C. 134 not later than four months after the date on which the reply was filed or the appeal was taken;

(b) Failure to issue a patent within three years of the actual filing date of the application. Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including[7]:

In pertinent part, 37 CFR § 1.703 provides for calculation of the periods, as follows:

Period of adjustment of patent term due to examination delay.

(a) The period of adjustment under § 1.702(a) is the sum of the following periods:

(1) The number of days, if any, in the period beginning on the day after the date that is fourteen months after the date on which the application was filed under 35 U.S.C. 111(a) or fulfilled the requirements of 35 U.S.C. 371 and ending on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first;

(b) The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day

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[7] (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

> after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods[8]:

37 CFR 1.703(f) provides that:

> The adjustment will run from the expiration date of the patent as set forth in 35 U.S.C. 154(a)(2). To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed. The term of a patent entitled to adjustment under § 1.702 and this section shall be adjusted for the sum of the periods calculated under paragraphs (a) through (e) of this section, to the extent that such periods are not overlapping, less the sum of the periods calculated under § 1.704. The date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation.

---

[8] (1) The number of days, if any, in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued;

(2)(i) The number of days, if any, in the period beginning on the date an interference was declared or redeclared to involve the application in the interference and ending on the date that the interference was terminated with respect to the application; and (ii) The number of days, if any, in the period beginning on the date prosecution in the application was suspended by the Office due to interference proceedings under 35 U.S.C. 135(a) not involving the application and ending on the date of the termination of the suspension;

(3)(i) The number of days, if any, the application was maintained in a sealed condition under 35 U.S.C. 181; (ii) The number of days, if any, in the period beginning on the date of mailing of an examiner's answer under § 41.39 of this title in the application under secrecy order and ending on the date the secrecy order was removed; (iii) The number of days, if any, in the period beginning on the date applicant was notified that an interference would be declared but for the secrecy order and ending on the date the secrecy order was removed; and (iv) The number of days, if any, in the period beginning on the date of notification under § 5.3(c) of this chapter and ending on the date of mailing of the notice of allowance under 35 U.S.C. 151; and,

(4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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RABIN & BERDO, P.C.
Suite 500
1101 14 Street, N.W.
Washington, DC 20005

Mail Date: 04/21/2010

Applicant	: Shih-Kai Lee	: DECISION ON REQUEST FOR
Patent Number	: 7586835	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1299** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Hong-Ro Lee	: DECISION ON REQUEST FOR
Patent Number	: 7649156	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,473	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **464** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Feb-08

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

COPY MAILED

FEB 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Lee et al.	:	DECISION ON PETITION TO
Application Number: 10/995477	:	WITHDRAW HOLDING OF
Filing Date: 11/24/2004	:	ABANDONMENT
Attorney Docket Number: 21C-0308	:	

This is a decision on the petition filed on October 30, 2007, to withdraw the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on April 11, 2007, which set a three (3) month shortened statutory period for reply. The filing of the present petition precedes the mailing of Notice of Abandonment.

Petitioner asserts that the non-final Office action mailed on April 11, 2007, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish 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.

In support of the petition, the petitioners' counsel, registered patent practitioner James J. Merrick, attests that a search of the file jacket and docket records from April 11, 2007, to July 11, 2007 indicates that the Office action issued on April 11, 2007, was not received. A copy of the docket record from April 11, 2007, to July 11, 2007, where the non-final Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

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

The showing of record is that the non-final Office action mailed on April 11, 2007, was mailed to Customer No. 23413: Cantor Colburn, LLP, 55 Griffin Road South, Bloomfield, CT 06002. Although the same Customer Number is still associated with petitioners' correspondence address, the address now associated with Customer Number 23413 is Cantor Colburn, LLP, 20 Church Street, 22nd Floor, Hartford, CT 06103.

As such, a question is raised as to whether petitioners were receiving mail at the correspondence address of record at the time the non-final Office action mailed on April 11, 2007 was mailed. Petitioners must verify that they were, in fact, receiving mail at the correspondence address listed in the non-final Office action at the time the non-final Office action was mailed, and for a reasonable time thereafter. The showing of record leads to a conclusion that the non-final Office action lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Any renewed petition must explain when the address associated with Customer Number 23413 was changed, and explain whether petitioners were receiving mail at the address listed on the non-final Office action mailed on April 11, 2007, at the time the non-final Office action was mailed.

Accordingly, the showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time.

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. **This time period is not extendable.**[1]

ALTERNATIVE VENUE

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b), 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). A grantable petition pursuant to 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 8 June, 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)).

---

[1] 37 CFR 1.181(f).

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).

A copy of the Office action mailed on April 11, 2007, has been enclosed for petitioners' reference in preparing the required reply.

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

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.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Office action mailed on April 11, 2007
PTO/SB/64

Cc:

CANTOR COLBURN LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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.
10/995,477	11/24/2004	Dong-Won Lee	21C-0308	6434

23413 7590 04/11/2007
CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

EXAMINER
PRENTY, MARK V

ART UNIT	PAPER NUMBER
2822	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/11/2007	PAPER

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

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	10/995,477	LEE ET AL.	
	Examiner	Art Unit	
	MARK PRENTY	2822	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on 26 March 2007.

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

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

Disposition of Claims

4)☒ Claim(s) 1-9,11 and 13-23 is/are pending in the application.

4a) Of the above claim(s) 1-8 and 19-23 is/are withdrawn from consideration.

5)☒ Claim(s) 13,16 and 17 is/are allowed.

6)☒ Claim(s) 9,11,14,15 and 18 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

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

Application Papers

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

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

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

This Office Action is in response to the RCE filed on March 26, 2007.

Claims 1-8 and 19-23 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention.

Claims 9, 11, 14, 15 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by United States Patent 7,015,503 to Seki et al. (Seki).

As to independent claim 9, Seki discloses (see the entire patent, including the Figs. 1-5 and Figs. 8A-8D disclosure) a light-emitting unit 40 comprising: a first electrode 41 (Fig. 5C) formed on a substrate, the first electrode configured to receive a first driving signal from a circuit unit 50; a bank 62 that surrounds sides of the first electrode, the bank having a receiving portion on an upper face of the bank (see the Figs. 2A-2C disclosure), the bank has a lattice-shape to define a cavity over the first electrode (see the Fig. 3 disclosure); a light-emitting layer 43 formed on the first electrode; and a second electrode OP formed on the light-emitting layer, the second electrode being configured to receive a second driving signal from the circuit unit, wherein a volume of the receiving portion is substantially the same or less than a volume of the cavity (see the Figs. 2A-2C disclosure and the Figs. 8A-8D disclosure, which together disclose that a recess formed in bank 110 has a volume less than a volume of cavity 101).

Claim 9 is thus rejected under 35 U.S.C. 102(e) as being anticipated by Seki.

As to independent claim 11, Seki discloses (see the entire patent, including the Figs. 1-5 and Figs. 8A-8D disclosure) a display apparatus 1 comprising: a light-emitting unit 40 including: a first electrode 41 (Fig. 5C) formed on a substrate, the first electrode

configured to receive a first driving signal from a circuit unit 50; a bank 62 that surrounds sides of the first electrode, the bank having a receiving portion on an upper face of the bank (see the Figs. 2A-2C disclosure), the bank has a lattice-shape to define a cavity over the first electrode (see the Fig. 3 disclosure); a light-emitting layer 43 formed on the first electrode; and a second electrode OP formed on the light-emitting layer, the second electrode being configured to receive a second driving signal from the circuit unit, wherein a volume of the receiving portion is substantially the same or less than a volume of the cavity (see the Figs. 2A-2C disclosure and the Figs. 8A-8D disclosure, which together disclose that a recess formed in bank 110 has a volume less than a volume of cavity 101).

Claim 11 is thus rejected under 35 U.S.C. 102(e) as being anticipated by Seki.

As to dependent claim 14, Seki's receiving portion corresponds to a portion recessed from the upper face of the bank such that a depth of the "recession" is less than a height of the bank (see the Figs. 2A-2C disclosure).

Claim 14 is thus rejected under 35 U.S.C. 102(e) as being anticipated by Seki.

As to dependent claim 15, Seki's receiving portion corresponds to a groove surrounding the first electrode (see the Figs. 2A-2C disclosure).

Claim 15 is thus rejected under 35 U.S.C. 102(e) as being anticipated by Seki.

As to independent claim 18, Seki discloses (see the entire patent, including the Figs. 1-5 and Figs. 8A-8D disclosure) a display apparatus 1 comprising: a switching device 20 (Fig. 3) formed on a substrate to output an image signal; a driver device 30 (Fig. 3) formed on the substrate, the driver device outputting a first driving signal based

on the image signal; and a light-emitting unit 40 including: a first electrode 41 (Fig. 5C) formed on a substrate, the first electrode configured to receive a first driving signal from a circuit unit 50; a bank 62 that surrounds sides of the first electrode, the bank having a receiving portion on an upper face of the bank (see the Figs. 2A-2C disclosure), the bank has a lattice-shape to define a cavity over the first electrode (see the Fig. 3 disclosure); a light-emitting layer 43 formed on the first electrode; and a second electrode OP formed on the light-emitting layer, the second electrode being configured to receive a second driving signal from the circuit unit, wherein a volume of the receiving portion is substantially the same or less than a volume of the cavity (see the Figs. 2A-2C disclosure and the Figs. 8A-8D disclosure, which together disclose that a recess formed in bank 110 has a volume less than a volume of cavity 101).

Claim 18 is thus rejected under 35 U.S.C. 102(e) as being anticipated by Seki.

Claims 13, 16 and 17 are allowable over the prior art of record.

The RCE includes a copy of the arguments made in the response filed on February 26, 2007, which were rebutted in the Advisory Action mailed on March 6, 2007 (see pages 2-4). That rebuttal is reproduced below.

The applicant's allegation: "Seki does not disclose anything about the volume of the liquid droplet reservoirs in the bank surfaces and/or the volume of a targeted pixel (e.g., volume of cavity defined by the bank). Seki certainly does not teach or suggest any relationship between volumes of the liquid droplet reservoirs and a cavity associated with a targeted pixel to receive liquid droplets using an ink jet method," is incorrect. Seki's Figs. 8A-8D bank/cavity disclosure together with its Figs. 2A-2C bank

receiving portion disclosure clearly disclose not only a receiving portion formed in Figs. 8A-8D's bank 110, but a receiving portion having a volume less than a volume of Figs. 8A-8D's cavity 101.

The applicant's argument: "it is noted that FIGS 8A-8D of Seki do not disclose any recess formed in bank 110, and thus can not teach or suggest first a recess, and second, a recess having any type of volume, nevertheless a volume that is less than a volume of the cavity," is not on point because the rejection relies on Seki's Figs. 8A-8D bank/cavity disclosure together with its Figs. 2A-2C bank receiving portion disclosure, which together disclose not only a receiving portion formed in Figs. 8A-8D's bank 110, but a receiving portion having a volume less than a volume of Figs. 8A-8D's cavity 101.

The applicant's allegation: "FIGS. 8A-8D of Seki disclose cross-sections of manufacturing processes in thin film formation method pertaining to a fourth embodiment (i.e., without a receiving portion on an upper face of the bank)," is incorrect. Specifically, contrary to the applicant's allegation, Seki's Figs. 8A-8D disclosure is <u>not</u> directed to a "fourth [bank] embodiment without a receiving portion on an upper face of the bank." Rather, Seki's Figs. 8A-8D disclosure is directed to <u>a method of forming</u> banks "provided in any desired shape" (see column 21, lines 45-53), while Seki's Figs. 2A-2C illustrate bank configurations wherein banks are advantageously provided with liquid droplet reservoirs (see column 13, lines 11-57).

The applicant's allegation: "It is respectfully submitted that the Examiner improperly attempts to combine the embodiments of FIGS. 2A-2C having a receiving portion on an upper face of the bank defining a volume with the <u>different</u> embodiments

disclosed in FIGS. 8A-8D lacking any kind of a receiving portion on an upper face of the bank, and thus not defining any volume, in an attempt to read on Applicants' recited claim language in independent claim 9, 11 and 18," (emphasis in original) is incorrect because Seki's Figs. 2A-2C disclosure and Figs. 8A-8D disclosure are not directed to "different" bank embodiments at all, let alone mutually exclusive bank embodiments. Again, Seki's Figs. 8A-8D disclosure is not directed to a bank embodiment "lacking any kind of a receiving portion on an upper face of the bank," it is directed to a method of forming banks "provided in any desired shape" (see column 21, lines 45-53), and Seki's Figs. 2A-2C disclosure clearly teaches providing such banks with a liquid receiving portion on an upper face of the bank. Indeed, Seki's Figs. 8A-8D disclosure is relied upon merely for its illustration of cavity 101 defined by bank 110, which Seki as a whole clearly discloses can be formed in the bank configurations disclosed in Figs. 2A-2C.

The applicant's allegation: "Furthermore, there is no disclosure in either FIGS. 2A-2C or FIGS. 8A-8D of Seki, taken either alone or in combination, teaching or suggesting any relationship between the volume of the receiving portion as it may relate to a volume of a corresponding cavity," is incorrect because those Seki Figures taken in combination do in fact disclose the claimed relationship between the volumes of the receiving portion and the cavity. Again, Seki's Figs. 8A-8D bank/cavity disclosure in combination with its Figs. 2A-2C bank receiving portion disclosure clearly disclose not only a receiving portion formed in Figs. 8A-8D's bank 110, but a receiving portion having a volume less than a volume of Figs. 8A-8D's cavity 101.

Registered practitioners can telephone the examiner at (571) 272-1843. Any voicemail message left for the examiner must include the name and registration number of the registered practitioner calling, and the Application/Control (Serial) Number. Technology Center 2800's general telephone number is (571) 272-2800.

Mark Prenty

Mark V. Prenty
Primary Examiner

PTO/SB/64 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

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

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
☐ Fee Payment
☐ Reply
☐ Terminal Disclaimer Form
☐ Additional sheets containing statements establishing unintentional delay
☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

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

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

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

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MAY 28 2008

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
20 CHURCH STREET
22ND FLOOR
HARTFORD CT 06103

In re Application of	:	
Lee et al.	:	DECISION ON PETITION TO
Application Number: 10/995477	:	WITHDRAW HOLDING OF
Filing Date: 11/24/2004	:	ABANDONMENT
Attorney Docket Number: 21C-0308	:	

This is a decision on the renewed petition filed on April 25, 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 respond to the non-final Office action mailed on April 11, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 7, 2008. The petition to withdraw the holding of abandonment filed on October 30, 2007, was dismissed on February 25, 2008.

Petitioners again assert that the non-final Office action mailed on April 11, 2007, was never received. Petitioners aver that the correspondence address associated with the customer number associated with this application was changed on December 21, 2007, subsequent to the mailing of the non-final Office action mailed on April 11, 2007.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish 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.

In support of the renewed petition, the petitioners' counsel, registered patent practitioner John W. Stankicwicz, attests that a search of the file jacket and docket records from April 11, 2007, to April 17, 2008 indicates that the Office action issued on April 11, 2007, was not received. A copy of the docket record from April 11, 2007, to April 17, 2008, where the non-final Office action would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

Additionally, petitioners have provided a copy of the Private PAIR update printout, dated December 21, 2007, acknowledging the change of correspondence address.

Accordingly, petitioners have demonstrated that the non-final Office action mailed on April 11, 2007, was never received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 2822 for remailing of the Notice mailed on April 11, 2007. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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AUG 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Beaglehole	:	
Application No. 10/995,520	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 049157-0101	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 21, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes declaration statement made by the applicant. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2877 for action on the merits commensurate with this decision.

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
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MORRISON AND FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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SEP 0 5 2007

OFFICE OF PETITIONS

In re Application of
Georg EGGERS, et al
Application No. 10/995,529
Filed: November 24, 2004
Attorney Docket No. 543822010400

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison and Foerster, LLP has been revoked by the applicant of the patent application on June 12, 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 Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD,
SUITE 1000
DALLAS, TX 75252

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 11/28/06

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/995535 Patent No.: 7031167B1

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: _____

Dean A. Bitcharf
SPE

2841
Art Unit

10/995535

OIPE IAP48
OCT 19 2006
PATENT & TRADEMARK OFFICE

CERTIFICATE OF CORRECTION BRANCH
Attorney Docket No.: 26543U

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:
ZAGOORY, et al.
Patent No.: 7,031,167
Issued: April 18, 2006
Title: **WEDGELOCK FOR ELECTRONIC CIRCUIT CARD MODULE**

TRANSMITTAL LETTER

Certificate
OCT 24 2006
of Correction

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

Sir:

Submitted herewith for filing in the U.S. Patent and Trademark Office is the following:

1) Two (2) Copies of PTO Form-1050;
2) Check No. 3044 in the Amount of **$ 100.00** for providing a Certificate of Correction for applicant's mistake under 37 CFR 1.323.

Please charge any required fee, or credit any overpayment, in connection with this matter to Deposit Account No. 14-0112.

Respectfully submitted,
NATH & ASSOCIATES PLLC

October 19, 2006 By: _____

Gary M. Nath, Reg. No. 26,965
Gregory B. Kang, Reg. No. 45,273
Jerald L. Meyer, Reg. No. 41,194
Customer No. 20529

cj

OCT 24 2006

OIPE IAP48
OCT 19 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:
ZAGOORY, et al.
Patent No.: 7,031,167
Issued: April 18, 2006
Title: **WEDGELOCK FOR ELECTRONIC CIRCUIT CARD MODULE**

REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R § 1.322

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

Sir:

Please correct the captioned patent by entering the changes shown on the attached Form PTO-1050. It is respectfully submitted that at least one of the errors occurred through the fault of the applicant. The Commissioner is hereby petitioned under 37 C.F.R. § 1.323 to correct such mistakes. Attached herewith is a check in the amount of **$ 100.00**, as set forth under 37 CFR 1.20(a). A duplicate copy of Form PTO-1050 is submitted herewith.

Any questions regarding this matter should be directed to the below signing attorney.

Respectfully submitted,
NATH & ASSOCIATES PLLC

October 19, 2006 By: _____

Gary M. Nath, Reg. No. 26,965
Gregory B. Kang, Reg. No. 45,273
Jerald L. Meyer, Reg. No. 41,194
Customer No. 20529

cj

10/20/2006 JADDO1 00000082 7031167
01 FC:1811 100.00 OP

OCT 24 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NUMBER : 7,031,167

ISSUED : April 18, 2006

INVENTOR : ZAGOORY, et al.

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

Claim 1, Column 5, Line 10,
Please delete
"module" and replace with -- plate element --

MAILING ADDRESS OF SENDER:

NATH & ASSOCIATES PLLC
112 South West Street
Alexandria, VA 22314
TEL: (703) 548-6284
FAX: (703) 683-8396

PATENT NO. 7,031,167

OCT. 2 4 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

APR 0 7 2008

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Alexandria, VA 22313-1450
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Harry B. Shubin
MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza 1 Suite 1400
2200 Clarendon Boulevard
Arlington VA 22201

In re Application of	:
FRITZEMEIER	:Decision on Petition
Serial No.: 10/995,552	:
Filed : 24 November 2004	:
Attorney Docket No.:	:

This letter is in response to the Renewed Petition under 37 C.F.R. 1.181 filed on 28 February 2008 requesting reconsideration of the petition decision mailed 10 July 2007.

BACKGROUND

This application was filed under 35 USC 111(a) and as such, is eligible for US restriction practice per Chapter 800 of the MPEP.

On 19 January 2006, the examined required restriction as follows:

> Group I, claims 1-2 drawn to a method of making medicaments for prevention of hypertension heart disease.
>
> Group II, claims 3-19, drawn to method of preventing and/or treating estrogen deficiency related dysfunction of the cardiovascular system.

On 17 February, 2006, applicants elected Group I without traverse, cancelled claim 2 and reformatted claim 1 by amendment to read upon the elected invention.

On 9 May 2006, the examiner examined claims 1 and 4-19 in a non-final Office action. Claims 1 and 4-18 were rejected under 35 USC 112, 1st paragraph for scope of enablement. Claims 1 and 4-19 were rejected under 35 USC 112, 2nd paragraph for indefiniteness. Claims 1 and 4-18 were rejected under 35 USC 103(a) as being unpatentable over Peters and DE 100 19 167. . Claims 1 and 4-18 were provisionally rejected for obvious type double patenting.

On 25 September 2006, applicants filed a response and amended claim 1 to state "dysfunction" in place of "deficiency" and to make a few more minor amendments to the claims. No new claims were added.

On 10 July 2007, the examiner set forth a second restriction requirement which divided the claims into five groups based upon the disease being treated.

> Group I was directed to a method of treating hypertensive heart disease.
> Group II was directed to a method of treating hypertension.
> Group III was directed to a method of treating cardiac hypertrophin.
> Group IV was directed to a method of treating heart failure.
> Group V was directed to a method of treating estrogen related dysfunction of the cardiovascular system.

All five groups were classified in class 514, subclass 170. The examiner then reasoned that the restriction was proper in view of their different classification.

On 7 August 2007, Applicant elected Group I with traverse.

On 28 September 2007, the examined considered the traversal, examined claims 1 and 11 and made the restriction requirement and the Office action final.

This petition and a response to the Office action were timely filed on 28 February 2008.

DISCUSSION

The petition and the file history have been considered carefully.

It is noted that the petition does not address the initial restriction requirement between the process of making and process of using set forth on 19 January 2006. This initial restriction requirement is considered proper and being maintained.

The petition and this decision will address the second restriction requirement set forth on 10 July 2007.

MPEP 803 sets for the criteria for restriction between patentably distinct inventions.

> There are two criteria for a proper requirement for restriction between patentably distinct inventions:
>
> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
>
> (B) There would be a serious burden on the examiner if restriction is not required (see MPEP § 803.02, § 808, and § 808.02).

MPEP 808.02 states in part:

> Where the inventions as claimed are shown to be independent or distinct under the criteria of MPEP § 806.05(c) - § 806.06, the examiner, in order to establish reasons for insisting upon restriction, must explain why there would be a serious burden on the examiner if restriction is not required.

In this instance, the examiner attempted to establish burden by stating that Groups I-V were separately classified. This is incorrect given that the same classification (514/170) was used by the examiner for every one of Groups I-V.

Moreover, applicants are correct that the Office cannot establish burden among "groups" which the Office had already examined together on the merits in the same application.

For these two reasons, the restriction requirement mailed 10 July 2007 cannot be maintained.

DECISION

The petition filed under 37 CFR 1.181 on 28 February 2008 is **GRANTED**.

The restriction requirement mailed 10 July 2007 has been withdrawn.

The application will be forwarded to the examiner to consider the papers filed on 28 February 2008 and to prepare a non-final Office action consistent with this petition decision.

Should there be any questions regarding this decision, please contact Special Program Examiner Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-1600 or by Official Fax at 703-272-8300.

John Leguyader for

George Elliott
Director, Technology Center 1600

JOHN LEGUYADER
DIRECTOR
TECHNOLOGY CENTER 1600

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

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NOV 2 4 2009

OFFICE OF PETITIONS

In re Application of :
Li et al. :
Application No. 10/995,565 :
Filed: November 24, 2004 :
Attorney Docket No. 16887.110 :
Title: Methods Of Protecting :
Against Radiation Injury :

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(B)" filed September 11, 2009. Applicants submit that the correct patent term adjustment to be indicated on the patent is nine hundred twenty-nine (929) days, not six hundred twenty-four (624) 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.

/Kery A. Fries/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARSTENS YEE & CAHOON, LLP
P.O. BOX 802334
DALLAS, TX 75380

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
Hong Liao :
Application No. 10/995,576 :
Filed: November 23, 2004 :
Attorney Docket No. CACIP.00010 :

ON PETITION

This is a decision on the petition under 37 CFR 1.183, filed February 28, 2005, to waive provisions of 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1).

The petition is **GRANTED**.

Petitioner states, "This petition is filed in response to a Notice to File Corrected Application Papers mailed on January 13, 2005 for a non-provisional patent application. The Notice alleges that Figures 4-6 of the application (attached to this petition) do not conform to 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1)."

Further, "The Applicant has chosen these images as representative of pages in books found in a typical library in China. The Applicant's original application was not filed with the United States Patent Office and thus chose figures which are not completely in English. These images, in accordance with the invention claimed, were scanned for use with the computer algorithm disclosed in the application. Specifically, Figures 4-6 illustrate how the compression algorithm described in the specification has not changed the original image as scanned by a computer. Any manipulation of the images shown in Figures 4-6 within the rectangles could destroy the use of Figures 4-6 in support of the application."

For the reasons given above, and in the petition, it is agreed that justice would be served by waiver of the rules to the extent that Figure 4-6 illustrate the image files printed after being processed with the compression algorithm of the present invention.

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

Conferees: IL, BH

OIPE JC37
FEB 2 8 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT:	Hong Liao	§	GROUP ART UNIT: New
		§	
		§	
FILED:	November 23,2004	§	EXAMINER: New
		§	
INVENTION:	A Computer-Implemented Method for Compressing Image Files	§	
		§	
		§	
		§	
SERIAL No:	10/995,576	§	ATTY FILE: CACIP.00010

PETITION TO SUSPEND RULE 37 CFR 1.52(D)(1) UNDER 37 CFR 1.183 AND MPEP 1002

Mail Stop Petition
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

This petition is filed in response to a Notice to File Corrected Application Papers mailed on January 13, 2005 for a non-provisional patent application. The Notice alleges that Figures 4-6 of the application (attached to this petition) do not conform to 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1). Applicant hereby petitions the Commissioner to properly apply 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1), or in the alternative, petitions the Commissioner to suspend the application of 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1), for the above-referenced patent application. Applicant hereby offers the following remarks.

The examining members ("Examiners") of the OIPE have incorrectly determined that the application referenced above is "informal since it [Figures 4-6] does not comply with the regulations" 37 CFR 1.84(p)(2) and 37 CFR 1.52(d)(1). Applicant respectfully disagrees.

Applicant respectfully draws the Examiners' attention to the application as a whole and

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COMMISSIONER FOR PATENTS
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McANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

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APR 04 2005

OFFICE OF PETITIONS

In re Application of :
Gregory L. Heacock :
Application No. 10/995,589 :
Filed: November 22, 2004 : ON PETITION
For: DISPOSABLE OPTHALMIC LENSE :

This is a decision on the Petition, filed March 21, 2005, requesting the application be accorded a filing date of November 22, 2004, including 1 page of drawings.

The petition is **granted**.

The application was filed on November 22, 2004. However, on November 10, 2004, the Office of Initial Patent Examination mailed a Notice of Incomplete NonProvisional Application (hereinafter ("Notice"), stating that the application had NOT been accorded a filing date because the application had been deposited without drawings.

In response, Applicant files the instant petition wherein Applicant avers that 1 page of drawings was included among the application papers filed with the application on November 22, 2004, and was 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*, 1 page of drawings filed on November 22, 2004.

A review of the return receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of 1 page of drawings by this Office on November 22, 2004. Applicant has also re-submitted 1 page of drawings with the instant petition.

Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard 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 postcard in the outgoing mail. "A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted. The copy of 1 page of drawings, supplied with the instant petition on March 21, 2005, will be used for examination purposes.

A refund of the petition fee, 400.00, has been refunded to deposit account 13-0017.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 22, 2004, and an indication that page 6 of the Specification was included among 12 pages of Specification that were present on filing on November 22, 2004.

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

Derek L. Woods
Attorney/Advisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOLER SCHAFFER, LLP
5000 PLAZA ON THE LAKES
SUITE 265
AUSTIN TX 78746

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JAN 3 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Henning et al.
Application No. 10/995,597
Filed: November 22, 2004
Title: Data Accumulation and Segmentation System in Electronic Commerce

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 13, 2006.

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

This above-identified application became abandoned for failure to timely file a reply to an Restriction Requirement mailed February 24, 2006. The Office Action set a one (1) 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 March 25, 2006. A Notice of Abandonment was mailed on September 22, 2006.

Petitioner asserts that the restriction requirement mailed on February 24, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a search of the file jacket and docket records confirms the Office Action was not received. In support of petitioner's contention, a copy of the docket records has been provided.

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

This application is being forwarded to Art Unit 3625 for review of the response to the restriction requirement submitted on September 13, 2006.

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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CROMPTON CORPORATION
Benson Road
Middlebury CT 06749

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JAN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
SIMMONS et al.	:	DECISION ON PETITION
Application No. 10/995,605	:	
Filed: 11/22/2004	:	
Attorney Docket No. 0226-PA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2007, to revive the above-identified application.

The above-identified application became abandoned for failure to file a timely response to the nonfinal Office Action, mailed December 27, 2006, which set a three-month shortened statutory period for reply. The above-identified application became abandoned on March 28, 2007. On July 24, 2007, the Office mailed a Notice of Abandonment.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply in the form of an amendment, paid the petition fee, and made the proper statement of unintentional delay. Accordingly, the petition is **granted.**

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 $2,330.00 extension of time fee submitted with the petition on November 9, 2007, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This matter is being referred to Technology Center Art Unit 1711.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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LAW OFFICES OF STUART J. FRIEDMAN
28930 RIDGE ROAD
MT. AIRY, MD 21771

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Csatary et al.	:	
Application No. 10/995,614	:	
Filed: November 23, 2004	:	ON PETITION
Attorney Docket Number:	:	
740481-44	:	

This is a decision in response to the Petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed December 22, 2004. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on February 23, 2005. A Notice of Abandonment was mailed September 15, 2005.

With the instant petition Petitioner has filed the necessary documents and paid the requisite fees.

The Oath/declaration has been entered and made of record.

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

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

Derek L. Woods
Attorney
Office of Petitions

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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS, NY 10598

Mail Date: 04/20/2010

Applicant	: Simon Goldsmith	: DECISION ON REQUEST FOR
Patent Number	: 7620940	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,620	: 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 **683** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MARK D. SARALINO (GENERAL)
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVENUE, NINETEENTH FLOOR
CLEVELAND, OH 44115-2191

Mail Date: 04/21/2010

Applicant	: Ryoichi Sato	: DECISION ON REQUEST FOR
Patent Number	: 7624916	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,621	: 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 **959** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
ZUCHERMAN, James F. et al. :
Application No. 10/995,626 : DECISION ON PETITION
Filed: November 23, 2004 : TO WITHDRAW
Attorney Docket No. **5910-201** : FROM RECORD
:

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

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

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on December 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **COATS & BENNETT/MEDTRONICS**
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

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

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OFFICE OF PETITIONS

In re Application of	:	
Lin et al.	:	
Application No. 10/995,635	:	DECISION ON PETITION
Filed: November 22, 2004	:	
Attorney Docket No. 250806-1400	:	

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

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2871 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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July 2005

NOTARO & MICHALOS P.C.
100 DUTCH HILL ROAD
SUITE 110
ORANGEBURG, NY 10962-2100

AUG 29 2005

In re Application of: ROMAN VINOLY ET AL. Serial No.: 10/995,650 Filed: 23 November 2004 Docket: J803-001 US	DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d)

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

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

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

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a)-(d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e).

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

Petitioner presents a brief discussion of the supplied references. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For the references which were mentioned on page 6 (AA, AG, AH, AK), a detailed discussion must discuss what features are disclosed or taught for each independent claim, and what features are not disclosed or taught for each independent claim. Furthermore, certain references (such as AM and AE) were not discussed as to their differences. The remaining references in the IDS, which were stated as being included as the most relevant references, were neither summarized nor discussed. Petitioner is required to provide a detailed discussion for *each* reference and *each* independent claim.

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

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

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

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

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

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March 2006

MAR 10 2006

NOTARO & MICHALOS, P.C.
100 Dutch Hill Road
Suite 110
Orangeburg, New York 10962-2100

In re Application of: ROMAN VINOLY ET AL. Serial No.: 10/995,650 Filed: 23 November 2004 Docket: J803-001 US Title: CAMERA ASSEMBLY FOR FINGER BOARD INSTRUMENTS	DECISION ON REQUEST FOR RECONSIDERATION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition, filed on November 3, 2005, requesting reconsideration of the decision dated August 29, 2005 dismissing the petition to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

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

The decision of August 29th, 2005 dismissed the petition for failing to meet the requirements of MPEP § 708.02(VIII)(e) for a detailed discussion of all of the cited references.

The requirements of MPEP § 708.02(VIII)(a)-(d) were considered to have been met in the prior decision. In the request for reconsideration, petitioner provides a detailed discussion of how each of the independent claims 1, 27 and 28 distinguishes over the references cited in the IDS filed June 20, 2005, thus meeting the requirement of MPEP § 708.02(VIII)(e).

For the above-mentioned reasons, the petition is granted. The application will be advanced out of turn for examination, and will continue to be treated as special throughout the entire prosecution in the Office according to the procedure set forth in MPEP § 708.02(VIII). Any restriction later required by the Office must be responded with an election without traverse by applicant as a condition for the application retaining its special status.

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 become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/995,707	11/22/2004	3661	511	116120.00007	54	28	4

CONFIRMATION NO. 6250

CORRECTED FILING RECEIPT

OC000000015157272

26707
QUARLES & BRADY LLP
RENAISSANCE ONE
TWO NORTH CENTRAL AVENUE
PHOENIX, AZ 85004-2391

Date Mailed: 02/10/2005

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

Applicant(s)

Lars Oliver Graf, Cotati, CA;

Power of Attorney: The patent practitioners associated with Customer Number **26707**.

Domestic Priority data as claimed by applicant

Foreign Applications

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 US10/995,707

Projected Publication Date: 05/25/2006

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

System and method of event correlation

Preliminary Class

701

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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PHOENIX AZ 85004-2391

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In re Application of

GRAF, Lars O.
Application No. 10/995,707
Filed: November 22, 2004
Attorney Docket No. **116120.00007**

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, 2008.

The request is **APPROVED**.

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

The request was signed by Robert Atkins on behalf of all attorneys of record who are associated with customer No. 26707. All attorneys/agents associated with the Customer Number 26707 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Lars Graf at the address indicated below. There is an outstanding Office action mailed January 25, 2005 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: **LARS O. GRAF**
101 ROSS STREET, #1
COTATI CA 94931

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CALFEE HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 04/20/2010

Applicant	: Gary Putnam	: DECISION ON REQUEST FOR
Patent Number	: 7661184	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,711	: 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 **1296** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JAMES B. CONTE
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CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of
LEU, Shawn A.
Application No. 10/995,726
Filed: November 22, 2004
Attorney Docket No. **926512-101078**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (file responsibility was transferred to attorneys/agents associated with customer number 24658), does 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 Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **WELSH & KATZ, LTD**
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION
P.O. BOX 1967
MIDLAND, MI 48641-1967

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In re Application of
Bedri Erdem
Application No. 10/995,727
Filed: November 22, 2004
Attorney Docket No. 63922

ON PETITION

This is a decision in response to the petition, filed May 6, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 24, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on August 25, 2007. This decision precedes the mailing of a Notice of Abandonment. On May 6, 2008, the present petition was filed.

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

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

The application is being referred to Technology Center AU 1796 for consideration of the amendment filed May 6, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DUANE C. ULMER
DOW GLOBAL TECHNOLOGIES INC.
2040 DOW CENTER
MIDLAND, MI 48674

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TEXAS INSTRUMENTS INCORPORATED
PO BOX 655474, M/S 3999
DALLAS TX 75265

COPY MAILED

NOV 15 2007

OFFICE OF PETITIONS

In re Application of	:	
Gene B. Hinterscher	:	
Application No. 10/995,744	:	DECISION GRANTING PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. TI-38253	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of January 26, 2007, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

JUN 02 2010

OFFICE OF PETITIONS

Paper No.

POLLY C. OWEN
P.O. BOX 511
KINGSPORT TN 37662-5075

In re Application of
Buchanan et al.
Application No. 10/995,750
Filed: November 23, 2004
Attorney Docket No. 80027
Title: CELLULOSE INTERPOLYMERS AND METHOD OF OXIDATION

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(B)

This is a decision on the petition filed February 10, 2010, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed June 17, 2009, which set a shortened statutory period for reply of three months. An after-final amendment was received on December 17, 2009 along with a three-month extension of time, and an advisory action was mailed on January 4, 2010. No extensions of time under the provisions of 37 C.F.R § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on December 18, 2009. A notice of abandonment was mailed on January 13, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner filed, *inter alia*, a Request for Continued Examination (RCE) along with the required fee, the petition fee, and the proper statement of unintentional delay. The RCE has been accepted as the required reply under 37 C.F.R. § 1.137(b)(1).

As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[1]

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the submission under 37 C.F.R. § 1.114 - the amendment and the Rule 1.132 declaration that were submitted concurrently on February 10, 2010 - can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[2] All other inquiries

---

1 See Rule 1.137(d).

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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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SCHLUMBERGER OILFIELD SERVICES
200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

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DEC 12 2008

In re Application of	:	
Geoff DOWNTOWN	:	
Application No. 10/995,757	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. **92.1032**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 06, 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 reply within the meaning of 37 CFR 1.113 to the final Office action, mailed July 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 28, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).See the enclosed PTOL-303. It is further noted that in the letter filed concurrently with the instant petition, on page 2, U.S. Application No. 11/542,052 is listed as the Application Number.

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

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Encl: PTOL-303 (Advisory Action)

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/995,757	Applicant(s) DOWNTON, GEOFF	
	Examiner ROBERT E. FULLER	Art Unit 3676	

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

THE REPLY FILED 06 May 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

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

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/David J. Bagnell/
Supervisory Patent Examiner, Art Unit 3672

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments are not persuasive. Applicant has argued that Krueger (US 2006/0021797) does not disclose "a bias arrangement having a plurality of bias pads connected to the stator so as to be rotatable therewith." Examiner respectfully disagrees because Figures 2 and 3 of Krueger clearly show bias pads (30) mounted at different positions in a stator (16) of a drilling motor (10). Figures 4 and 5, which are sectional views corresponding to Figures 2 and 3, clearly show that the bias pads are mounted in the housing (22), which applicant admits to be connected to the stator (see page 5 of the remarks, in the second-to-last line). It is examiner's understanding that housing (22) and stator (16) are essentially the same thing. Therefore, Krueger discloses a bias arrangment connected to and rotatable with a stator. Examiner respectfully asserts that Kreuger's drawings appear to clearly meet the limitations of claim 1, and applicant has provided no reason to doubt the clarity of Kreuger's drawings. .

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200 GILLINGHAM LANE
MD 200-9
SUGAR LAND TX 77478

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Geoff DOWNTON	:	
Application No. 10/995,757	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. **92.1032**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed January 26, 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 July 27, 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 28, 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 $1540; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office Action of July 27, 2007 is accepted having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and

Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The petition fee of $1620 included with this renewed petition is unnecessary and is being credited to Deposit Account 50-2898 as authorized.

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

This application is being referred to Technology Center AU 3676 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **SCHLUMBERGER**
STONEHOUSE TECHNOLOGY CENTER
BRUNEL WAY
STONEHOUSE, GLOUCESTERSHIRE
GL103SX
UNITED KINGDOM

Should and fee be due relating to the Renewed Petition pursuant to 37 CFR §1.137(b), Applicants authorize the charging of the Petition fee pursuant to 37 CFR §1.17(m) and any additional fees to Deposit Account No.50-2898.

Please charge any underpayments or credit any overpayments associated with the petition fee to our Deposit Account No.50-2898. A duplicate of this sheet is enclosed for that purpose. Applicant respectfully requests that the present application be reinstated, and passed to issue.

If there are any questions concerning the Petition to Revive the Examiner is invited to telephone Applicant's representative at the telephone number listed below.

Respectfully Submitted,

/Vincent Loccisano/
Vincent Loccisano
Registration No. 55,397

Schlumberger
Stonehouse Technology Center
Brunel Way
Stonehouse, Gloucestershire
GL10 3SX
United Kingdom

Phone: +44 (0) 1453 836536
January 26, 2009

Should and fee be due relating to the Renewed Petition pursuant to 37 CFR §1.137(b), Applicants authorize the charging of the Petition fee pursuant to 37 CFR §1.17(m) and any additional fees to Deposit Account No.50-2898.

Please charge any underpayments or credit any overpayments associated with the petition fee to our Deposit Account No.50-2898. A duplicate of this sheet is enclosed for that purpose. Applicant respectfully requests that the present application be reinstated, and passed to issue.

If there are any questions concerning the Petition to Revive the Examiner is invited to telephone Applicant's representative at the telephone number listed below.

Respectfully Submitted,

/Vincent Loccisano/
Vincent Loccisano
Registration No. 55,397

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Stonehouse Technology Center
Brunel Way
Stonehouse, Gloucestershire
GL10 3SX
United Kingdom

Phone: +44 (0) 1453 836536
January 26, 2009

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10995757 Total Records Found: 6

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
01/27/2009	00007504	4	1453	$1,620.00	01/26/2009	DA 502898
01/27/2009	00007505	4	1801	$810.00	01/26/2009	DA 502898
05/07/2008	00000022	1	1453	$1,540.00	05/06/2008	DA 502898
05/11/2007	00003595	4	1253	$1,020.00	05/11/2007	DA 502898
12/14/2004	00000149	1	8021	$40.00	11/23/2004	DA 502898
12/06/2004	00000006	1	1001	$790.00	11/23/2004	DA 502898

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Geoff Downton	)	CUSTOMER NO.
	)	Confirmation No. 8309
	)	
Application No.: 10/995,757	)	Group: 3672
	)	
Filing Date: November 23, 2004	)	Examiner: Fuller, Robert Edward
	)	
Title: STEERABLE DRILLING SYSTEM	)	Docket N°: 92.1032

Renewed Petition Under 37 CFR 1.137(b)

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 CFR §1.137(b), and responsive to Decision of Petition mailed December 12, 2008, the undersigned hereby petitions in connection with the above-identified patent application.

Applicants respectfully submit that 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. Mailed concurrently with this Renewed Petition are the required Reply to the Final Office Action mailed July 27, 2007 and a Request for Continued Examination. Applicant notes that the required Reply to the Final Office Action was previously filed with the originally submitted Petition. Should a Request for Extension of time be required, Applicant authorizes the charging of Deposit Account No. 50-2898.

Should and fee be due relating to the Renewed Petition pursuant to 37 CFR §1.137(b), Applicants authorize the charging of the Petition fee pursuant to 37 CFR §1.17(m) and any additional fees to Deposit Account No.50-2898.

Please charge any underpayments or credit any overpayments associated with the petition fee to our Deposit Account No.50-2898. A duplicate of this sheet is enclosed for that purpose. Applicant respectfully requests that the present application be reinstated, and passed to issue.

If there are any questions concerning the Petition to Revive the Examiner is invited to telephone Applicant's representative at the telephone number listed below.

Respectfully Submitted,

/Vincent Loccisano/
Vincent Loccisano
Registration No. 55,397

Schlumberger
Stonehouse Technology Center
Brunel Way
Stonehouse, Gloucestershire
GL10 3SX
United Kingdom

Phone: +44 (0) 1453 836536
January 26, 2009

Doc code: RCEX
Doc description: Request for Continued Examination (RCE)

PTO/SB/30EFS (12-08)
Approved for use through 01/31/2009. 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.

REQUEST FOR CONTINUED EXAMINATION(RCE)TRANSMITTAL
(Submitted Only via EFS-Web)

Application Number	10995757	Filing Date	2004-11-23	Docket Number (if applicable)	92.1032	Art Unit	3672
First Named Inventor	Geoff Downton			Examiner Name	Fuller, Robert Edward		

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. The Instruction Sheet for this form is located at WWW.USPTO.GOV

SUBMISSION REQUIRED UNDER 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

☐ Other _____

☒ Enclosed

☒ Amendment/Reply

☐ Information Disclosure Statement (IDS)

☐ Affidavit(s)/ Declaration(s)

☒ Other Replacement sheet drawings 2/3

MISCELLANEOUS

☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of months _____ (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

☐ Other _____

FEES

☒ **The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.**
The Director is hereby authorized to charge any underpayment of fees, or credit any overpayments, to Deposit Account No 502898

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

☒ Patent Practitioner Signature

☐ Applicant Signature

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 07/06/2010

Applicant	: Lawrence Crainich	: DECISION ON REQUEST FOR
Patent Number	: 7641671	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,782	: 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 **130** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

In re Patent No. 7,526,042
Issued: April 28, 2009
Application No. 10/995,814
Filed: November 22, 2004
Dkt. No.: : FUJI 21.542

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(d)," filed April 14, 2009.

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. 7,526,042 on April 28, 2009. The instant request for reconsideration was timely filed. The patent issued with a PTA of 683 days. Patentee contends that the adjustment was improperly reduced 64 days in connection with the mailing of a Priority Acknowledgment on February 24, 2009. Patentee contends that the mailing of the Priority Acknowledgment was not done in response to an applicant submission.

Patentees arguments have been carefully considered and found convincing. The correct adjustment at the time of issuance is 747 days.

The adjustment of 747 days was improperly reduced 64 days in connection with the Priority Acknowledgment mailed February 24, 2009. As this communication was not mailed in response to an applicant submission, the reduction under 37 CFR 1.704(c)(10) is in error.

Accordingly, at the time of issuance, the patent was entitled to a patent term adjustment of 747 days (adjustments totaling 747 days less reduction of zero days).

The Office acknowledges receipt of the $200.00 application fee required under 37 CFR 1.18(e).

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

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 747 days.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,526,042 B2

DATED : April 28, 2009

INVENTOR(S) : Yoshida

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 683 days

Delete the phrase "by 683 days" and insert – by 747 days--

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

SIEMENS SCHWEIZ
I-44, INTELLECTUAL PROPERTY
ALBISRIEDERSTRASSE 245
ZURICH, SWITZERLAND CH-8047

COPY MAILED

MAR 3 1 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Bernd LINDENMAYER et al.	:
Application No. 10/995,825	:
Filed: November 24, 2004	:
Attorney Docket No. 2002P05988WOUS	:

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance mailed September 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on December 7, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

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

The application file is being referred to the Office of Patent Publication.

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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NOV 0 9 2006
OFFICE OF PETITIONS

CHARLES G. NESSLER
P.O. BOX H
CHESTER CT 06412

In re Application of	:	
David C. Smith	:	
Application No. 10/995,832	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 2425	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed October 25, 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 declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3641 for action on the merits commensurate with this decision.

Terri Williams
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

JJGJR.: 07-04

Paper No: __

RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
SEVENTH FLOOR
1100 SUPERIOR AVENUE
CLEVELAND OH 44114-2579

COPY MAILED

JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of
Pallen, et al. :
Application No. 10/995,838 : ON PETITION
Filed: 23 December 2004 :
Attorney Docket No. A1126US-NP(XERZ 200796) :

This is a decision on the papers submitted and considered as a petition filed on 25 April, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and 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 "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 23 November, 2004, without, *inter alia*, a fully executed oath/declaration;

- on 28 December, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 25 April, 2005, a statement by Petitioner Richard M. Klein (Reg. No. 33,000) filed, *inter alia*, the instant petition, along with an oath/declaration containing the signatures of named co-inventors Pallen, Delouise, Lau, and Skinner (for themselves and on behalf of) but without the signatures of named non-signing co-inventors Michael Keymel (Mr. Keymel), Hiep Ly (Mr./Ms. Ly) and Erin M. Reinhardt (Ms. Reinhardt), a narration the statement of Lynda S. Kalemba (identified as Assistant to Mr. Klein), and an averment that the oath or declaration was presented to Ms. Reinhardt–however, the transmittal letter speaks only to the oath/declaration and assignment and thus does not demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Ms. Reinhardt along with the oath or declaration. Moreover, there is no last known address for the other non-signing inventors and evidence of any effort whatsoever to make such a determination–save that Petitioner asked the Human Resources office of the alleged assignee and no information was forthcoming.

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §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 fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

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, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached

should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.

> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

The record as it stands shows no effort to comply with the regulations and provide a last known address for the non-signing inventors, a showing of a diligent effort to obtain same, or the transmission of the entire application (description, claims, abstract and drawings)–as evidenced by a copy of the transmittal letter describing same. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

---

[1] See: MPEP 409.03(b).

[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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JJGJR.: 11-05

Paper No: __

RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
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1100 SUPERIOR AVENUE
CLEVELAND OH 44114-2579

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of
Pallen, et al. :
Application No. 10/995,838 : ON PETITION
Filed: 23 December 2004 :
Attorney Docket No. A1126US-NP(XERZ 200796) :

This is a decision on the papers submitted and considered as a petition filed on 26 September, 2005, under 37 C.F.R. §1.47(a).

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 23 November, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 28 December, 2004, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 25 April, 2005, a statement by Petitioner Richard M. Klein (Reg. No. 33,000) filed, *inter alia*, the original petition, along with an oath/declaration containing the signatures of named co-inventors Pallen, Delouise, Lau, and Skinner (for themselves and on behalf of) but without the signatures of named non-signing co-inventors Michael Keymel (Mr.

Keymel), Hiep Ly (Mr./Ms. Ly) and Erin M. Reinhardt (Ms. Reinhardt), a narration the statement of Lynda S. Kalemba (identified as Assistant to Mr. Klein), and an averment that the oath or declaration was presented to Ms. Reinhardt–however, the transmittal letter speaks only to the oath/declaration and assignment and thus does not demonstrate that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventor Ms. Reinhardt along with the oath or declaration. Moreover, there is no last known address for the other non-signing inventors and evidence of any effort whatsoever to make such a determination–save that Petitioner asked the Human Resources office of the alleged assignee and no information was forthcoming–and for those reasons the petition was dismissed on 22 July, 2005;

- with the instant petition, Petitioner provides copies of the oath/declaration bearing the signatures of Michael Keymel and Hiep Ly, along with documentation evidencing support for Petitioner's contention that the former deficiencies as to the remaining non-signing inventor (Ms. Reinhardt) have been corrected.

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(a).

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

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

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

This file is released to the Technology Center for further 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

JJGJR.: 11-05

Paper No: __

ERIN M. REINHARDT
851 MAPLE DRIVE
WEBSTER, NY 14580

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DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of
Pallen, et al. :
Application No. 10/995,838 : COMMUNICATION
Filed: 23 December 2004 :
Attorney Docket No. A1126US-NP(XERZ 200796) :

Dear Erin M. Reinhardt:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your

---

[1] The regulations at 37 C.F.R. §1.47 provide:

§ 1.47 Filing when an inventor refuses to sign or cannot be reached.

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
RICHARD M. KLEIN, ESQ.
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
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1100 SUPERIOR AVENUE
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UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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THOMAS A. O'ROURKE
BODNER & O'ROUKE
425 BROADHOLLOW ROAD
MELVILLE, NY 11747

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OFFICE OF PETITIONS

In re Application of	:	
Matt THUNDYIL, et al	:	
Application No. 10/995,843	:	DECISION ON PETITION
Filed: November 22, 2004	:	
Docket No	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 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, December 18, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 19, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received July 11, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

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ROSS PATENT LAW OFFICE
P.O. BOX 2138
DEL MAR, CA 92014

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In re Application of	:	
Scott Martin BUSHAW	:	
Application No. 10/995,848	:	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 November 21, 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 Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 16, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 17, 2005.

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

The Power of Attorney filed November 21, 2009, has been acknowledged and accepted.

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

This application is being referred to the Office of Data Management for further processing in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc : SCOTT M. BUSHAW
281 STANFORD ST.
LA HABRA, CA 90631

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
10/995,848	11/23/2004	Scott Martin Bushaw	

CONFIRMATION NO. 7095

POA ACCEPTANCE LETTER

36255
ROSS PATENT LAW OFFICE
P.O. BOX 2138
DEL MAR, CA 92014

OC000000040023344

Date Mailed: 02/04/2010

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/21/2009.

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.

/dcgoodwyn/

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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GEORGE O. SAILE
28 DAVIS AVENUE
POUGHKEEPSIE NY 12603

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JUN 20 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Chew Hoe Ang et al :
Application No. 10/995,849 :
Filed: November 23, 2004 :
Attorney Docket No. CS01-017/18C :

This is a decision on the petition, filed June 19, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 21, 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 2891 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 08/04/2010

Applicant	: Takashi Fujioka	: DECISION ON REQUEST FOR
Patent Number	: 7647067	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,854	: 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 **1450** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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MAR 3 1 2005

OFFICE OF PETITIONS

In re Application of :
David Kludjian, et al. :
Application No. 10/995,875 : DECISION ON PETITION
Filed: November 22, 2004 :
Attorney Docket No. 5836P001XDC :

This is a decision on the petition filed March 8, 2005, requesting that the above-identified application be accorded a filing date of November 22, 2004.

The petition is **DISMISSED AS MOOT**.

USPTO records show that the accorded filing date is November 22, 2004. While the postcard receipt that petitioner received shows an incorrect filing date of November 23, 2004, the filing receipt confirms the correct filing date. Since the application has been accorded the requested filing date already, the petition is unnecessary.

This application file is being forwarded to the Office of Initial Patent Examination Division for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

In re Application of KLUDJIAN, DAVID et al Serial No.: 10/995,875 Filed: Nov. 22, 2004 Docket: 5836P001XDC Title: RAZOR	DECISION ON PETITION TO WITHDRAW REJECTION UNDER 37 CFR 1.181

This is a decision on the petition filed on July 12, 2006 by which petitioner requests withdrawal of the final Office Action dated Feb. 7, 2006.

The petition is **GRANTED IN PART**.

A review of the relevant prosecution history shows that on March 23, 2006 the applicant filed a request for reconsideration with no amendment to the claims after the third Final rejection mailed of Feb. 7, 2006. The examiner subsequently issued an Advisory Action on April 3, 2006. Throughout the prosecution, the examiner made numerous objections to the specification regarding references numerals and insertion of the correct patent number. On March 23, 2006, the applicant filed an amendment to the specification to make corrections as requested by the examiner on page 2 of the Final Rejection mailed Feb. 7, 2006.

The applicant filed the present petition on July 12, 2006. The applicant requests six points of relief, namely:

A. Withdrawal of the finality of the third Final Rejection of Feb. 7, 2006;
B. Entry of amendment in the specification on page 1, paragraph 1, line 4;
C. Entry of amendment in the specification on page 5, paragraph 2, lines 9-10;
D. Entry of amendment in the specification on page 6, paragraph 4, line 31;
E. Entry of amendment in the specification on page 8, paragraph 2, line 23;
F. Entry of amendment in the specification on page 9, paragraph 3, line 31.

Based on a complete review of the file and the petitioner's arguments, the finality of the third Final Rejection of Feb. 7, 2006 is hereby withdrawn. All amendments to the claims, if any, are to be entered. Amendments to the specification (substitute paragraphs) to be made on pages 5, 6, 8,

and 9 as requested by the examiner on page 3 of the second Final Rejection mailed Oct. 17, 2005 also will be entered. The amendment to the specification on page 1, paragraph 1, line 4, will not be entered because the applicant has not made the patent number correction. The corrected patent number is 6,823,594, not 6,823,595.

Summary

The examiner was directed to withdraw the Finality of the third Final Rejection of Feb. 7, 2006 as stated in Point A above and enter corrections to the specification as stated in Points C, D, E and F above. The examiner did this in the Office action mailed on Mar. 22, 2007. Accordingly, Points of Relief A and C-F are GRANTED and Point of Relief B cannot be granted. A correction to the patent number must be made.

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

PETITION GRANTED-IN-PART.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090317

DATE : March 17, 2009

TO SPE OF : ART UNIT 2891

SUBJECT : Request for Certificate of Correction on Patent No.: 7259405

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:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510

MAILED

MAY 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Rom et al.	:	
Application Number: 10/995879	:	ON PETITION
Filing Date: 11/23/2004	:	
Attorney Docket Number: 04-624	:	
	:	

This is a decision on the renewed petition under 37 CFR 1.137(b) filed on February 18, 2010.

The petition is **GRANTED**.

This application became abandoned on February 15, 2008, for failure to timely file an Appeal Brief in response to the Notice of Appeal filed on December 14, 2008, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. The filing of the present petition precedes the mailing of Notice of Abandonment.

Receipt of the Appeal Brief filed with the subject petition is acknowledged.

The application is being referred to Technology Center Art Unit 3679 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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MAY 28 2009

OFFICE OF PETITIONS

Jacqueline S. Larson
245 Avington Road
Alameda, CA 94502

In re Application of	:	
Stephen E. Barry et al.	:	
Application No. 10/995,880	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO WITHDRAW
Attorney Docket No. ALNS-017PP	:	FROM RECORD
	:	

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, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Jacqueline S. Larson and all attorneys/agents of record has been revoked by the assignee of the patent application on March 9, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Foley & Lardner, LLP
150 East Gilman Street
P.O. Box 1497
Madison, WI 53701-1497

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Glenn Patent Group
3475 Edison Way Suite L
Menlo Park, CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Jose De Alba	:	
Application No. 10/995,887	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO WITHDRAW
Attorney Docket No. DEAL0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 10, 2006.

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

A review of the file record indicates that the power of attorney to Christopher Peil and attorney(s) and/or agent(s) associated with Customer Number 22862 have been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Jose De Alba
1590 Nash Road
Holister, CA 95023

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Central Coast Patent Agency, Inc.
3 Hangar Way Suite D
Watsonville, CA 95076

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OFFICE OF PETITIONS

In re Application of	:	
Jose De Alba	:	
Application No. 10/995,887	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO WITHDRAW
Attorney Docket No. DEAL0001	:	FROM RECORD
	:	

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 13, 2006.

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

A review of the file record indicates that the power of attorney to Christopher Peil and the attorney(s) and/or agent(s) associated with Central Coast Patent Agency have been revoked by the applicant of the patent application on May 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: **Jose De Alba**
1590 Nash Road
Holister, CA 95023

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KLARQUIST SPARKMAN, L.L.P.
121 S.W. SALMON STREET
SUITE 1600
ONE WORLD TRADE CENTER
PORTLAND, OR 97204-2988

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Yuan et al. :
Application No. 10/995,914 :
Filed: November 22, 2004 :
Atty Dckt No.: 4239-55607-02 : ON PETITION

This is a decision in response to the Petition Under 37 CFR § 1.10(d) For Correction of Filing Date, filed June 9, 2005, requesting the application be accorded a filing date of November 22, 2004, instead of the presently accorded filing date of November 24, 2004. The correspondence is properly treated under 37 CFR 1.10(c).

This Petition is hereby **granted**.

Petitioner alleges that the application was deposited in Express Mail service on November 22, 2004. In support of this assertion, the petition is accompanied by a copy of Express Mail label No. EV514603282US. A review of the Express Mail label, No. EV514603282US, reveals that the "Date In" indicated on the Express Mail label is November 22, 2004. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is granted.

A refund of the petition fee has been credited to deposit account 02-4550 as authorized in he instant petition.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET, SUITE #1600
PORTLAND, OR 97204-2988

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OFFICE OF PETITIONS

In re Application of	:	
YUAN, et al.	:	
Application No. 10/995,914	:	DECISION GRANTING PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 4239-55607-02	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on September 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1642 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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United States Patent and Trademark Office
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Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc.
1310 Electronics Drive
Carrollton, TX 75006

Mail Date: 05/20/2010

Applicant	: Patricia Chiang	: DECISION ON REQUEST FOR
Patent Number	: 7620261	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/995,937	: 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 **1371** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Dominique Gerbier	: DECISION ON REQUEST FOR
Patent Number	: 7628087	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/995,939	: 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 **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Application of	:	
Pretlove, et al.	:	DECISION
Application No.: 10/995,943	:	
Filing Date: 24 November, 2004	:	
Attorney Docket No. 43315-211440	:	

This is a decision on the petition, filed on 5 June, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 25

[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.**

August, 2006, with reply due absent an extension of time on or before 25 November, 2006;

- the application went abandoned by operation of law after midnight 25 November, 2006;
- the Office mailed the Notice of Abandonment on 5 April, 2007;
- on 5 June, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, timely reply (with request and fee for extension of time) in the form of an amendment filed on Monday 26 February, 2007, and submits copies of date-stamped ("FEB 26 2007") receipt card (see: MPEP §503[2]) for and the averred reply in support of the statement.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) can inform an applicant/practitioner as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the

---

[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), * (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512. As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous

---

[10] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

> timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 5 April, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) 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

[11] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:10302006

DATE : October 30, 2006

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction on Patent No.: 7,088086 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

SPE: Andrew Hirshfeld **Art Unit** 2858

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

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MAR 17 2005

OFFICE OF PETITIONS

In re Application of :
Mercp, et al. :
Application No. 10/995,954 :
Filed: November 22, 2004 :
Attorney Docket No. 20304/1202124-US1 :

DECISION GRANTING PETITION

This is a decision on the petition filed February 10, 2005, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the allegedly omitted item.

The petition is **granted**.

On November 22, 2004, the above-identified application was filed. However, on January 21, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of November 22, 2004, and advising applicant that page 29 of the specification appeared to have been omitted. Relative to the omitted figures, the Notice set a non-extendable period for reply two-months from its mailing date.

In response, on February 10, 2005, applicant filed the present petition, a copy of the entire specification, and an Office date-stamped postcard receipt acknowledging receipt of 29 pages of the specification, among other items.

Upon review of the record, page 29 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited November 22, 2004, included page 29 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including page 29 of the specification, was complete on filing and entitled to the presently accorded filing date of November 22, 2004, with page 29 of the specification as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being directed to the Office of Initial Patent Examination for further processing with the presently accorded filing date of October 22, 2004, using the papers filed on that date.

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

respectfully requested to accord the filing date on which the subject application papers were deposited by Express Mail.

Applicants submit herewith the petition fee of $400.00 pursuant to 37 C.F.R. 1.17(f). However, applicants hereby request a refund of the petition fee as the application is entitled to the filing date of November 22, 2004.

Dated: February 7, 2005

Respectfully submitted,

By S. Peter Ludwig

S. Peter Ludwig
Registration No.: 25,351
DARBY & DARBY P.C.
P.O. Box 5257
New York, New York 10150-5257
(212) 527-7700
(212) 753-6237 (Fax)
Attorneys/Agents For Applicant

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BARLEY SNYDER, LLC
1000 WESTLAKES DRIVE, SUITE 275
BERWYN PA 19312

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APR 0 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Tanigawa et al.	:	
Application No. 10/995,969	:	ON PETITION
Filed: 23 November, 2004	:	
Atty Dkt No. 21334-1380	:	

This is a decision on the petition filed on 22 February, 2005, requesting that the above-identified application be accorded a filing date of 23 November, 2004, with Figures 8, 9A, and 9B described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 23 November, 2004.

Accordingly, on 27 December, 2004, Initial Patent Examination Division mailed a Notice of Omitted Items in a Nonprovisional Application, stating that the application had been accorded a filing date of 23 November, 2004, but that Figures 8, 9A, and 9B described in the specification appeared to have been omitted from the application.

In response, on 22 February, 2005, the present petition and 13 sheets of drawings, including two (2) sheets containing Figures 8, 9A, and 9B were filed.

Petitioners argue that the two (2) sheets of drawings containing Figures 8, 9A, and 9B were filed with the other application papers on 23 November, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 11/23/04 and the above-identified application number, and identifies the application by the attorney docket number, and

the Express Mail Label number, and acknowledges receipt of, *inter alia*, 13 sheets of drawings. Petitioners request that the application, including two (2) sheets of drawings containing Figures 8, 9A, and 9B described in the specification, be accorded a filing date of 23 November, 2004.

A review of the record reveals that 11 sheets of drawings were received on filing. No sheets of drawings containing Figures 8, 9A, and 9B described in the specification have been located among the application papers received on 23 November, 2004. However, the evidence is convincing that the application papers deposited on 23 November, 2004, included 13 sheets of drawings, two (2) of which included Figures 8, 9A, and 9B described in the specification, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings containing Figures 8, 9A, and 9B described in the specification, is entitled to a filing date of 23 November, 2004.

The "Notice" mailed on 27 December, 2004, is vacated.

In view of the above, the petition is granted. The $130.00 of petition fee paid is unnecessary and will be refunded to counsel's deposit account, No. 50-1581.

The application will be processed with the two (2) sheets of drawings containing Figures 8, 9A, and 9B supplied with the present petition, as a part of the original disclosure. The copies of the other drawing sheets 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 23 November, 2004, using the application papers filed on that date, and the two (2) sheets of drawings containing Figures 8, 9A, and 9B supplied with the present petition, and an indication in Office records that 13 sheets of drawings were present on filing.

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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OFFICE OF PETITIONS

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SUITE 1000
999 PEACHTREE STREET
ATLANTA GA 30309-3915

In re Application of
Miller & Brownlee
Application No. 10/283,002
Filed: October 29, 2002
Attorney Docket No. 19133.0017U2
For: TEXTURED LAMINATE FLOORING

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed July 14, 2003 (certificate of mailing date July 10, 2003).

The petition is granted.

Petitioner has shown that the non-signing inventor, Robert J. Miller, 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 William R. Johnson, an attorney handling the prosecution of this application, establishes that the inventor's two attorneys received a complete copy of the application papers on separate occasions and the second attorney stated that Mr. Miller would not sign the declaration unless he received additional information. 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

CHF/BLZ
Com 7/31/03
BLZ 8/4/03

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Alexandria, VA 22313-1450
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AGILENT TECHNOLOGIES INC.
INTELLECTUAL PROPERTY ADMINISTRATION, LEGAL DEPT.
MS BLDG. E P.O. BOX 7599
LOVELAND, CO 80537

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AUG 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles Edward Evans, et. al.	:	
Application No. 10/995,987	:	DECISION GRANTING
Filed: November 19, 2004	:	PETITION
Attorney Docket No. 10040805-1	:	

This is a decision on the request filed on March 9, 2007, which is being treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of November 19, 2004, rather than the presently accorded date of November 20, 2004.

Petitioner alleges that the application was deposited in Express Mail Service on November 19, 2004. In support, the petition is accompanied by a copy of Express Mail label No. EV 483416203 US, which bears a handwritten "date-in" of November 19, 2004 and a USPS receipt date stamp of November 19, 2004. It is noted that the Application Transmittal Letter contained the same Express Mail label number.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. Since the evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on November 19, 2004, the petition is **GRANTED**.

A corrected Official Filing Receipt was mailed to applicant on July 31, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

It appears that the assignee attempted to intervene in the above application by filing a change of correspondence address and Statement under 37 CFR 3.73(b) on June 7, 2007. Unfortunately, the Statement under 37 CFR 3.73(b) fails to fully comply with the requirements of 37 CFR 3.73(b), in that, the reel and frame number or recordation of the documentary evidence of the chain of title from the original owners to the current assignee has not been provided. Therefore, in order to accept the change of correspondence address filed on June 7, 2007, an appropriate power of attorney or authorization of agent must be submitted and full compliance with 37 CFR 3.73(b) must be satisfied.

This application file is being referred to Technology Center Art Unit 2182, for review of the amendment filed on June 1, 2007.

Telephone inquiries relating to this decision should be directed to Andrea Smith at (571) 272-3226. Telephone inquiries related to Technology Center processing should be directed to their hotline at (571) 272-2100.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Kathy Manke
Avago Technologies Limited
4380 Ziegler Road
Fort Collins,CO 80525

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FEB 10 2005

HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER NY 14445-2408

In re Application of	:
Robert M. Bechtold	:
Serial No.: 10/996,002	: PETITION TO MAKE SPECIAL
Filed: November 23, 2004	:
Attorney Docket No.: RMB-755	:

This is in response to the petition filed December 13, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based environmental quality.

Applicant petitions on the basis that the invention will enhance the quality of the environment. M.P.E.P. 708.02, Part V, gives guidance in this matter, as follows:

> The Patent and Trademark Office will accord "special" status to all patent applications for inventions which materially enhance the quality of the environment of mankind **by contributing to the restoration or maintenance of the basic life - sustaining natural elements - air, water, and soil.**
>
> All applicants desiring to participate in this program should petition that their applications be accorded "special" status. Such petitions should be accompanied by verified statements under 37 CFR 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the PTO ** explaining how the inventions contribute to the restoration or maintenance of one of these life - sustaining elements. No fee is required for such a petition, 37 CFR 1.102(c).

Applicant's claims are directed to a process for purification of water using human powered energy to produce ultraviolet light. That the process can be used in remote areas or when normal electrical power is unavailable is consider to provide a material contribution to maintenance of the environment.

Applicant's petition is **GRANTED**.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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555 S. FLOWER STREET, SUITE 3500
LOS ANGELES, CA 90071-2411

MAILED

OCT 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael E. MILLER, et *al.*	:	
Application No. 10/996,026	:	DECISION GRANTING PETITION
Filed: November 22, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **047711-0356**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 28, 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 September 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3763 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/04/10

TO SPE OF : ART UNIT 2183

SUBJECT : Request for Certificate of Correction for Appl. No.: 10996027 Patent No.: 7647477

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: Corrections are to fix minor typographical errors

/Eddie P. Chan/
SPE

2183
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

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.
10/996,041	11/24/2004	Hun-Suk Yoo	P57259	4444

7590 06/03/2008

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

EXAMINER
PATEL, ASHOK

ART UNIT	PAPER NUMBER
2889	

MAIL DATE	DELIVERY MODE
06/03/2008	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.

May 19, 2008

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

In re Application of:
Hun-Suk Yoo
Serial No.: 10/996,041
Filed: November 24, 2004
Attorney Docket No.: P57259

DECISION ON PETITION
UNDER 37 C.F.R. § 1.144

This is a decision on the Petition filed on April 8, 2008, under 37 CFR § 1.144, requesting withdrawal of the restriction requirement between product and process claims. The restriction requirement was initially made on September 23, 2007, and was made final in the non-final Office action of January 9, 2008.

The petition is DENIED.

A restriction requirement was issued on September 28, 2007. The Examiner determined that the claims are directed to the following distinct inventions within the meaning of 35 USC § 121.

First species election requirement:

Species A: discharge electrodes and address electrode are arranged to be parallel to the substrates;

Species B: discharge electrodes and address electrode are arranged to be perpendicular to the substrates

** The First requirement has been withdrawn in the non-final Office action of January 9, 2008. Thus, this requirement will no longer be discussed.*

Second species election requirement:

Species C: X electrode, Y electrode and address electrode being sequentially arranged;

Species D: address electrode, Y electrode and X electrode being sequentially arranged;

Species E: X electrode, address electrode and Y electrode being sequentially arranged;

Species F: Y electrode, address electrode and X electrode being sequentially arranged.

The inventions are determined to be distinct, each from the other because of the following reasons: the distinctness or independence of the *various sequentially arranged electrodes* (second species election requirement), is because each contains different structural features not required by the other species. All of these species are distinct or independent as requiring distinct and different features and functions thereof without overlapping search due to different subject matter. This lack of overlapping searches documents the undue search burden if they were searched together.

Petitioner asserts that the restriction requirement is in error because Applicant submits that the exact sequential order of the electrodes is not the central concept of Applicant's invention, but is instead just minor variations in design beyond placing all of the electrodes on or within the barrier ribs. Applicant submits that any mere variation is not and should not be the cause for a restriction requirement.

RESTRICTION PRACTICE

The restriction practice pertinent to the instant application and petition is outlined in the MPEP sections quoted below:

35 U.S.C. 121 quoted in the preceding section states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one application. In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application.

Where an application includes claims directed to different embodiments or species that could fall within the scope of a generic claim, restriction between the species may be proper if the species are independent or distinct. See MPEP § 806.04.

For purposes of the initial requirement, a serious burden on the examiner may be prima facie shown by appropriate explanation of separate classification, or separate status in the art, or a different field of search as defined in MPEP § 808.02.

Thus, the Examiner must show by appropriate explanation one of the following:

(A) Separate classification thereof: This shows that each invention has attained recognition in the art as a separate subject for inventive effort, and also a separate field of search. Patents need not be cited to show separate classification.

(B) A separate status in the art when they are classifiable together: Even though they are classified together, each invention can be shown to have formed separate subject for inventive effort when the examiner can show recognition of separate inventive effort by inventors. Separate status in the art may be shown by citing patents which are evidence of such separate status, and also of a separate field of search.

(C) A different field of search: Where it is necessary to search for one of the inventions in a manner that is not likely to result in finding art pertinent to the other invention(s) (e.g., searching different classes /subclasses or electronic resources, or employing different search queries, a different field of search is shown, even though the two are classified together. The indicated different field of search must in fact be

pertinent to the type of subject matter covered by the claims. Patents need not be cited to show different fields of search.

REVIEW OF FACTS

The election of species dated September 23, 2007 required Petitioner to elect for examination one of the following species: Species C: X electrode, Y electrode and address electrode being sequentially arranged; Species D: address electrode, Y electrode and X electrode being sequentially arranged; Species E: X electrode, address electrode and Y electrode being sequentially arranged; Species F: Y electrode, address electrode and X electrode being sequentially arranged.

The species requirement was based on the Examiner's determination that each of the species is patentably distinct from the other; and the inventions have acquired a separate status and a different field of search. The distinctness or independence of the various sequentially arranged electrodes (second species election requirement) is because each contains different structural features in different locations that may exhibit different forces or effects or interactions and not required by the other species. All of these species are distinct or independent as requiring distinct and different features thereof without overlapping search due to divergent subject matter. This lack of overlapping searches documents the undue search burden if they were searched together.

Petitioner asserts in the petition dated April 07, 2008 that the election of species requirement is in error because Applicant submits that the exact sequential order of the electrodes is not the central concept of Applicant's invention, but is instead just minor variations in design beyond placing all of the electrodes on or within the barrier ribs. Applicant submits that any mere variation is not and should not be the cause for a restriction requirement.

A review of the instant application reveals that the Examiner has properly identified Species C: X electrode, Y electrode and address electrode being sequentially arranged; Species D: address electrode, Y electrode and X electrode being sequentially arranged; Species E: X electrode, address electrode and Y electrode being sequentially arranged; and Species F: Y electrode, address electrode and X electrode being sequentially arranged. The Examiner has properly determined each of the species is patentably distinct from the other; and the inventions have acquired a separate status and a different field of search. The distinctness or independence of the various sequentially arranged electrodes (second species election requirement) is because each contains different structural features in different locations that may exhibit different forces or effects or interactions and not required by the other species. All of these species are distinct or independent as requiring distinct and different features thereof without overlapping search due to divergent subject matter. This lack of overlapping searches documents the undue search burden if they were searched together. The Examiner has properly followed the guidelines set forth in MPEP§ 806.04. Further, the Examiner has met the required showing of burden required under MPEP§ 808.02.

Further, if there is an express admission that the claimed inventions (species C-species F) would have been obvious over each other within the meaning of 35 U.S.C. 103, restriction should not be required. See MPEP§ 803. Applicant's assertion "the exact sequential order of the electrodes is not the central concept of Applicant's invention, but is instead just minor variations in design beyond placing all of the electrodes on or within the barrier ribs" does *not* consider as *an express admission* that the claimed inventions (species C-species F) would have been obvious over each other within the meaning of 35 U.S.C. 103.

CONCLUSION

The Examiner has properly determined each of the species is patentably distinct from the other; and the inventions have acquired a separate status and a different field of search. The distinctness or independence of the various sequentially arranged electrodes (second species election requirement) is because each contains different structural features in different locations that may exhibit different forces or effects or interactions and not required by the other species. All of these species are distinct or independent as requiring distinct and different features thereof without overlapping search due to divergent subject matter. This lack of overlapping searches documents the undue search burden if they were searched together. The Examiner has properly followed the guidelines set forth in MPEP§ 806.04. Further, the Examiner has met the required showing of burden required under MPEP§ 808.02.

Applicant's assertion "the exact sequential order of the electrodes is not the central concept of Applicant's invention, but is instead just minor variations in design beyond placing all of the electrodes on or within the barrier ribs" does *not* consider *as an express admission* that the claimed inventions (species C-species F) would have been obvious over each other within the meaning of 35 U.S.C. 103. See MPEP§ 803.

Any question concerning this decision should be directed to Toan Ton, Supervisory Patent Examiner at (571) 272-2303.

for Sharon Gibson, TC Director
Technology Center 2800
Semiconductors, Electrical and Optical Systems and Components

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8TH FLOOR
ARLINGTON VA 22201-4714

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OFFICE OF PETITIONS

In re Application of	:	
Lima et al	:	
Application No. 10/996,047	:	ON PETITION
Deposited: November 24,2004	:	
Attorney Docket No.:2764-143	:	
Title of Invention: System for	:	
Exploiting Oilfields	:	

This is a decision on the petition filed January 25, 2005, requesting that the above-identified nonprovisional application be accorded a filing date of November 24, 2004.

Application papers in the above-identified application were deposited on November 24, 2004. However, on December 23, 2004, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application", notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings.[1]

In response, on January 25, 2005,for the purposes of this decision, petitioner submitted a copy of the omitted figures. Applicant indicated that the drawings were not new matter and that an incorporation by reference statement had been provided on the cover sheet submitted on November 24, 2004. Accordingly, petitioner requests a filing date of November 24, 2004.

Upon further review of the petition and the application file it is evident the claims presented with the original disclosure included method claims. It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). See MPEP 601.01(f).

---

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

Since the application should have been accorded a filing date and a Notice of Omitted Parts should have been issued rather than a Notice of Incomplete Application, the application will be accorded the requested filing date of November 24, 2004 without drawings.

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

In view of the incorporation by reference of the prior application 10/430,390, figures 1-6 would not be considered new matter, if the figures were part of the disclosure of the prior application. The examiner will make a determination whether the drawings should be entered.

The application is being forwarded to the Office of Initial Patent Examination to accord the application a filing date of **November 24, 2004**, without any drawings.

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

Charlema R. Grant
Petition Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/996,051	11/24/2004	Ki-Seob Hong	47945	4440

7590 03/17/2010
ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

EXAMINER
KING, SIMON

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
03/17/2010	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

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

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Mimi Farmer

Patent Publication Branch
Office of Data Management

03 FC:1251 -420.00 OP

FORM PET651G (Rev. 08/07)

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Paper No.

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WASHINGTON DC 20043-9998

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OCT 09 2007

OFFICE OF PETITIONS

In re Application of :
Skourup et al. : DECISION ON PETITION
Application No. 10/996,056 :
Filed: November 24, 2004 :
Atty Docket No. 43315-211479 :

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed June 5, 2007.

By Notice of Abandonment mailed April 5, 2007, applicants were advised that the above-identified application had become abandoned for failure to file a reply to the Office action mailed August 21, 2006. (It is noted that the Office action was actually mailed August 25, 2006).

In response, applicants timely filed the instant petition, asserting that an election was timely filed in response on September 1, 2006.

Petitioner's evidence has been reviewed, and is persuasive. However, consideration of their evidence is unnecessary. Their response is present in the application with a date of receipt of September 1, 2006. The record supports a conclusion that withdrawal of holding of abandonment is warranted.

Accordingly, the Notice of Abandonment mailed April 5, 2007 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 3661 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for consideration by the examiner of the response filed on September 1, 2006.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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

Mail Date: 04/21/2010

Applicant	: Kinya Fujimoto	: DECISION ON REQUEST FOR
Patent Number	: 7575084	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,060	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1101** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MAR 14 2005

In re Application of	:	
Robert Johnson	:	
Serial No. 10/996,080	:	DECISION ON PETITION
Filed: November 22, 2004	:	TO MAKE SPECIAL
For: FOOTWEAR ORTHOTIC WITH INSERT	:	

Applicant's petition, filed November 22, 2004, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

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

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

PETITION GRANTED.

E. R. Kazenske, Director
Technology Center 3700

Kathy Mojibi
4929 Wilshire Blvd., Suite 500
Los Angeles, CA 90010

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MHKKG/Oracle (Sun)
P.O. BOX 398
AUSTIN, TX 78767

Mail Date: 04/20/2010

Applicant	: Nils Gura	: DECISION ON REQUEST FOR
Patent Number	: 7650374	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,103	: 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 **1051** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LOVELAND, CO 80537

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APR 25 2008

In re Application of Linam et al.	:	
Application No. 10/996,113	:	Decision on Petition
Filing Date: November 23, 2004	:	
Attorney Docket No. 10041015-01	:	

This is a decision on the petition filed October 31, 2007, requesting a refund of a portion of the excess claims fee paid on November 23, 2004.

The petition is **dismissed**.

Based on the number of claims filed with the original application, petitioner owed an excess claims fee of $828 on the date the application was filed.

The application papers included explicit authorization to charge the $828 excess claims fee to petitioner's deposit account. As a result, the fee was charged to petitioner's deposit account on November 29, 2004.

On September 19, 2007, the Office mailed a non-final Office action that included a requirement for restriction/election.

As a result of the restriction requirement, petitioner has cancelled claims and now seeks a refund of the portion of the excess claims fee associated with the cancelled claims.

In order for the refund to be granted, petitioner must comply with the provisions of 37 CFR 1.138(d) or 37 CFR 1.26.

Per 37 CFR 1.138(d), one may obtain a refund of the search fee and excess claims fee for applications failed on or after December 8, 2004, by filing a petition and declaration of express abandonment before the application has been examined.

The instant petition does not satisfy the requirements of 37 CFR 1.138(d) for several reasons:

(1) The application was filed prior to December 8, 2004;
(2) A declaration of express abandonment has not been filed; and
(3) Third, the petition was not filed before the application was examined. Per MPEP § 711.01 subsection III, an application has been examined for purposes of 37 CFR

1.138(d) once an action including a restriction or election of species requirement has been mailed. A restriction requirement was mailed September 19, 2007.

Since a petition and declaration of express abandonment were not filed prior to examination of the application, one may only obtain a refund of an excess claims fee by complying with the requirements in 37 CFR 1.26.[1] However, petitioner has failed to comply with the provisions of 37 CFR 1.26.

Per 37 CFR 1.26(a), the Office "may refund nay fee paid by mistake or [was paid] in excess of that required." Petitioner has failed to prove the fee was paid by mistake. Petitioner has failed to prove the fee was paid in excess of the amount due on November 23, 2004.

Per 37 CFR 1.26(b), "Any request for refund must be filed within two years from the date the fee was paid, except as otherwise provided in this paragraph or in § 1.28(a)" The fee was paid November 23, 2004. The request for refund was not filed until October 30, 2007.

For the preceding reasons, the Office will not refund any portion of the excess claims fee.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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[1] Per 37 CFR 1.138(d),

> If a petition and declaration of express abandonment under this paragraph are not filed before an examination has been made of the application, the Office will not refund any part of the search fee and excess claims fee paid in the application except as provided in § 1.26.

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
Jorgen Van PARYS	:	
Application No. 10/996,124	:	DECISION GRANTING PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **S1022.81188US00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 11, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2617 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.*

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AUSTIN, TEXAS 78746

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OFFICE OF PETITIONS

In re Application of	:	
Jon Paden et al.	:	
Application No. 10/996,127	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 1033-AS1011	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 7, 2005, for revival of the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to submit the required reply in a timely manner in response to the Notice of File Missing Parts of Nonprovisional Application (Notice) mailed December 27, 2004, which set a period for reply of two (2) months. Accordingly, the application became abandoned on February 28, 2005. A Notice of abandonment was mailed to the above-identified addressee on September 15, 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 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 required reply of oath and fee(s) due ($1420) at the time of filing the petition; (2) the petition fee ($1500) at the time of filing the petition; and (3) the required statement of

unintentional delay have been received. Accordingly, the reply to the Notice, mailed December 27, 2004, is accepted as having been unintentionally delayed.

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

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.

Frances Hicks for

Brian Hearn
Petitions Examiner
Office of Petitions

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TOLEDO OH 43604

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MAR 2 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Radu, Dry and Hein	:	
Application No. 10/996,134	:	DECISION ACCORDING STATUS
Filed: November 22, 2004	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 1-75122	:	
For: Vehicle Mirror Assembly	:	

This is in response to the petition under 37 CFR 1.47(a), filed February 24, 2005.

The petition is granted.

Petitioner has shown that Bogdan Radu, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Scott A. Blake, the attorney of record, stated that copies of the application papers were mailed to both the non-signing inventor and his attorney. Mr. Blake further states that Mr. Radu failed to respond to the request that he sign the declaration.

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

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

This matter is being referred to Technology Center Art Unit 2872.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

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JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
GOYAL et al.	:	
Application No. 10/996,174	:	ON APPLICATION FOR
Filed: 11/23/2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 04-999	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b)" filed March 9, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 662 days, not 1 day as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

---

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

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

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

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

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Blakeley, Sokoloff, Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of :
Evan R. Green :
Application No. 09/996,176 :
Filed: November 27, 2001 :
Attorney Docket No. 42390P10393 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2004, 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). The instant petition lacks item(s) (3).

A non-final Office action was mailed to applicant on December 12, 2003, which set a three (3) month shortened statutory period for reply. Applicant filed an amendment and a request for extension of time under the provisions of 37 CFR 1.136. However, the reply was filed too late. As no reply was timely received and no extensions of time under the provisions of 37 CFR 1.136 were timely obtained, the application became abandoned on March 13, 2003.

Since the application became abandoned, applicant filed the instant petition and a proposed reply, namely, an amendment. Receipt of the amendment is acknowledged.

With regard to item (3) above:

While the petition does contain the language required by 37 CFR 1.137(b)(3), it is noted that the statement is filed by a representative of the assignee. In order to take action in a patent matter, the assignee must establish ownership in the patent application to the satisfaction of the Commissioner. *See* 37 CFR 3.73(b) and MPEP 324. In view thereof, a certificate under 37 CFR 3.73(b) is required. A blank § 3.73(b) certificate is enclosed for petitioner's use.

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 **(703) 872-9306.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3223

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Blank Certificate under 37 CFR 3.73(b) Form

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

Kristofer E. Elbing
187 Pelham Island Road
Wayland, MA 01778

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JAN 23 2006

OFFICE OF PETITIONS

In re Application of	:	
E. Neil Lewis, et. al.	:	
Application No. 10/996,189	:	ON PETITION
Filed: November 22, 2004	:	
Attorney Docket No. S0001-014004	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on November 15, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to respond to the Notice to File Corrected Application Papers mailed December 22, 2004.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an abstract; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application file is being referred to the Office of Initial Patent Examination for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DEC 1 6 2009

OFFICE OF PETITIONS

KRISTOFER E. ELBING
187 PELHAM ISLAND ROAD
WAYLAND MA 01778

In re Application of	:	
Neil E. Lewis, et al.	:	
Application No. 10/996,189	:	DECISION ON PETITION
Filed: November 22, 2004	:	
Attorney Docket No. S0001-014004	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 14, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed December 19, 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) was obtained. Accordingly, the application became abandoned on January 20, 2009. The Notice of Abandonment was mailed July 8, 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 election, (2) the petition fee of $810, 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 Technology Center AU 2886 for appropriate action by the Examiner in the normal course of business on the reply received

Terri Johnson

Terri Johnson
Petitions Examiner
Office of Petitions

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

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of	:
Radu and Dry	:
Application No. 10/996,190	: DECISION ACCORDING STATUS
Filed: November 22, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 1-75005	:
For: Vehicle Console With Armrest	:
Extension	:

This is in response to the petition under 37 CFR 1.47(a), filed February 24, 2005.

The petition is granted.

Petitioner has shown that Bogdan Radu, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, Scott A. Blake, the attorney of record, stated that copies of the application papers were mailed to both the non-signing inventor and his attorney. Mr. Blake further states that Mr. Radu failed to respond to the request that he sign the declaration.

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

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

This matter is being referred to Technology Center Art Unit 3636.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Bogdan Radu
16011 Knollwood Drive
Dearborn MI 48120

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of :
Radu and Dry :
Application No. 10/996,190 : LETTER
Filed: November 22, 2004 :
Attorney Docket No. 1-75005 :
For: Vehicle Console With Armrest :
Extension :

Dear Mr. Radu:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FOURTH FLOOR
720 WATER STREET
TOLEDO OH 43604

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SEP 22 2005

TECHNOLOGY CENTER 3600

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

In re application of
Ronald J. Judge
Application No. 10/996,300
Filed: November 22, 2004
For: CONTROLLER FOR A QUICK DISCONNECT SLIDE ASSEMBLY

DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)

This is a decision on the petition under 37 C.F.R § 1.102(d) filed November 22, 2004 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed November 22, 2004 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on November 22, 2004.

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 08/22/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/996,306	11/22/2004	1645	2650	04305/100J091-US2	11	89	6

CONFIRMATION NO. 2547

CORRECTED FILING RECEIPT

OC000000016700105

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

Date Mailed: 08/04/2005

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)

Allan Christian Shaw, Aarhus C, DENMARK;
Brian Berg Vandahl, Aarhus N, DENMARK;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 10/119,536 04/09/2002 ABN
which claims benefit of 60/282,513 04/09/2001

Foreign Applications

DENMARK PA 2001 00581 04/09/2001

If Required, Foreign Filing License Granted: 04/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/996,306

Projected Publication Date: 09/22/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method for identification of proteins from intracellular bacteria

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the

national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICE OF CHARLES W. PETERSON, JR. Yorktown
11703 BOWMAN GREEN DRIVE
SUITE 100
RESTON, VA 20190

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JAN 23 2007

OFFICE OF PETITIONS

In re Application of Hsu et al. :
Application No. 10/996,312 :
Filing Date: November 23, 2004 :
Attorney Docket No. YOR920040175US1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181, filed October 27, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

The above-identified application was deemed abandoned for failure to reply in a timely manner to the non-final Office action mailed March 31, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application was deemed abandoned on July 1, 2006.

Petitioner has established the non-final Office action was never received. Therefore, the application is not abandoned.

Technology Center Art Unit 2816 will be informed of the instant decision. Thereafter, the Technology Center's technical support staff will mail a new copy of the non-final Office action. The time period for responding to the new non-final Office action will be set to run from the mailing date of the new non-final Office action.

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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Alexandria, VA 22313-1450
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Fish & Neave IP Group of
Ropes & Gray LLP
One International Place
Boston MA 02110

MAILED

MAR 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,408,041	:
Bowdish et al.	: DECISION UPON REMAND AND
Issue Date: August 5, 2008	: RECONSIDERATION OF
Application No. 10/996,316	: PATENT TERM ADJUSTMENT
Filed: November 23, 2004	: AND NOTICE OF INTENT
Attorney Docket No. ALXN -PO5-060	: TO ISSUE CERTIFICATE OF
	: CORRECTION
Title: POLYPEPTIDES AND ANTIBODIES DERIVED FROM CHRONIC LYMPHOCYTIC LEUKEMIA CELLS AND USES THEREOF	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by three hundred and five (305) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by three hundred and five (305) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,408,041 B2

DATED : **August 5, 2008** **DRAFT**

INVENTOR(S) : Bowdish 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 258 days

Delete the phrase "by 258 days" and insert – by 305 days--

Day : Tuesday
Date: 3/23/2010

PALM INTRANET

Time: 17:11:41

PTA Calculations for Application: 10/996316			
Application Filing Date:	11/23/2004	PTO Delay (PTO):	394
Issue Date of Patent:	08/05/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	136
Post-Issue Petitions:	0	Total PTA (days):	305
PTO Delay Adjustment:	47		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
138	03/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	47		
129.5	07/16/2008	PTA 36 MONTHS			
129	08/05/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
128	07/03/2008	EXPORT TO FINAL DATA CAPTURE			
127	07/02/2008	DISPATCH TO FDC			
126	07/02/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
125	05/08/2008	ISSUE FEE PAYMENT VERIFIED			
124	07/01/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
123	06/26/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
122	03/07/2008	PUBS CASE REMAND TO TC			
121	05/28/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
120	05/19/2008	FINISHED INITIAL DATA CAPTURE			
119	05/23/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
118	05/19/2008	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
114	05/10/2008	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
112	05/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
111	05/08/2008	ISSUE FEE PAYMENT RECEIVED			
110	05/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
		INFORMATION DISCLOSURE STATEMENT			

109	03/07/2008	CONSIDERED			
107	03/31/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
105	05/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		19	118
103	05/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
102	05/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
97	03/31/2008	REFERENCE CAPTURE ON IDS			
96	03/31/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		31	118
95	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		24	118
94	03/31/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
93	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
92	02/25/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
91	02/12/2008	EXPORT TO INITIAL DATA CAPTURE			
90	02/08/2008	MAIL NOTICE OF ALLOWANCE			
89	02/08/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
88	02/08/2008	MAIL EXAMINER'S AMENDMENT			
87	02/06/2008	ISSUE REVISION COMPLETED			
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61	01/18/2008	DISPOSAL FOR A RCE / CPA / R129			
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12	02/18/2005	ADDITIONAL APPLICATION FILING FEES			
11	02/18/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	02/18/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	02/18/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	02/03/2005	CLEARED BY L&R (LARS)			
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5	12/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	12/11/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/10/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	11/23/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	11/23/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

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

In re Application of

Andreas Raptopoulos, et al.
Application No. 10/993,330
Filed: November 23, 2004
Attorney Docket No. 11254/24

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 25, 2007.

The request is **NOT APPROVED**.

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

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006-1109

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CHICAGO, IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Andreas Raptoplulos, et al.	:	
Application No. 10/996,330	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 11254/24	:	FROM RECORD
	:	

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 **APPROVED**.

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

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

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

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

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

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

There are no pending Office actions at the present time.

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

April M. Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANDREAS RAPTOPOULOS
FLAT 46, 69 HOPTON STREET
LONDON, SE1 9LF

cc: HUNTON & WILLIAMS
1900 K STREET, NW
WASHINGTON, DC 20006-1109

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/996,330	11/23/2004	Andreas Raptopoulos	11254/24

CONFIRMATION NO. 4251

POWER OF ATTORNEY NOTICE

757
BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

OC000000030512331

Date Mailed: 06/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/16/2007.

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

/amwise/

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

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1-12-07

In re application of		:	
	Lubomirsky et al.	:	DECISION ON
Serial No.	10/996,342	:	PETITION
Filed:	November 22, 2004	:	
For:	APPARATUS FOR ELECTROLESS DEPOSITION OF METALS ONTO SEMICONDUCTOR SUBSTRATES	:	

This is a response to the PETITION FOR ACCEPTING RESPONSE AS TIMELY FILED DUE TO NON-DELIVERY NOTICE BY THE UNITED STATES PATENT AND TRADEMARK OFFICE filed on October 6, 2006.

DECISION

Since the petitioner asserts that the applicant did not receive the Office Action mailed June 12, 2006, the request is accepted as a petition under 37 C.F.R. § 1.181 (no fee).

The evidence presented by the petitioner in conjunction with the paper entered in the electronic file on June 23, 2006 showing that the mail was returned to the USPTO as undeliverable is deemed sufficient to establish the nonreceipt of the Office Communication.

Therefore any holding of abandonment for failure to timely file a proper response to the Notice of Non-Compliant Amendment mailed on June 12, 2006 is hereby vacated, and the application is returned to pending status.

The application shall be forwarded to the examiner for consideration of the response to the Notice of Non-Compliant Amendment submitted with the petition.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

caf

PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON TX 77056

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070829

DATE : August 29, 2007

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction on Patent No.: 7,237,213 B2

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

Certificate of Correction filed on 8/3/07 has been approved.

Jack K Chiang

SPE Jack Chiang **Art Unit** 2825

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LAW OFFICE OF JOHN C. MCMAHON
P.O. BOX 30069
KANSAS CITY, MO 64112

Mail Date: 04/21/2010

Applicant	: Roger P. Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7621918	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,349	: 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 **679** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JACOBSON HOLMAN PLLC
400 Seventh Street, N.W.
Washington, DC 20004-2201

Mail Date: 04/21/2010

Applicant	: Bruce Mead	: DECISION ON REQUEST FOR
Patent Number	: 7650725	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,357	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1259** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DIMOCK STRATTON LLP
20 QUEEN STREET WEST SUITE 3202, BOX 102
TORONTO ON M5H 3R3 CA CANADA

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In re Application	:
Michael K. Brown et al.	:
Application No. 10/996,369	: DECISION ON APPLICATION
Filed: November 26, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **1679-33/JLW**	:

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed May 15, 2009. Applicant requests that the determination of patent term adjustment be corrected from five hundred seventy (570) days to one thousand two hundred eight (1208) days. 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 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.

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 Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson

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

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Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 04/20/2010

Applicant	: Michael K. Brown	: DECISION ON REQUEST FOR
Patent Number	: 7603556	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,369	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1137** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Dimock Stratton LLP/Research In Motion Limited
20 Queen Street West, 32nd Floor, Box 102
Toronto, ON M5H 3R3
CANADA

Mail Date: 05/17/2010

Applicant : Michael K. Brown
Patent Number : 7603556
Issue Date : 10/13/2009
Application No : 10/996,369
Filed : 11/26/2004

: 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 **1254** 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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DAVID B. WALLER & ASSOCIATES
5677 OBERLIN DRIVE
SUITE 214
SAN DIEGO, CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
David B. Waller	:	
Application No. 10/996,372	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. WAL.001.CIP2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 3, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to file a proper response to the Restriction/Election Requirement mailed on June 30, 2008. A Notice of Abandonment was mailed on February 3, 2009.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof; (**2**) the petition fee required by 37 CFR 1.17(m); (**3**) 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 as set forth in 37 CFR 1.20(d)). This petition lacks item (3) above.

Petitioner should note that the petition and request for refund filed on March 3, 2009 fail to contain the signature of the registered practitioner. Therefore, the statement of unintentional delay is considered improper and the request for refund cannot be addressed at this time.

Since the address given in the present petition differs from the address of record, a courtesy copy of this decision will be mailed to the address in the petition. Thereafter, all future correspondence will be mailed to the address of record until otherwise instructed.

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) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". Petitioner is advised that this is not a final agency decision.

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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: David B. Waller
505 North Willowspring Drive
Encinitas, CA 92024

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David B. Waller & Associates
505 North Willowspring Drive
Encinitas, CA 92024

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JUL 29 2009

OFFICE OF PETITIONS

In re Application of	:	
David B. Waller	:	
Application No. 10/996,372	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. WAL.001.CIP2	:	

This is a decision on the renewed petition filed on March 31, 2009, which is being treated as a request to withdraw the holding of abandonment under 37 CFR 1.181, or, in the alternative a petition under 37 CFR 1.137(b) to revive the above-identified application.

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

Petitioner argues that "Due to the multitude of errors at the USPTO, Applicant's application was abandoned. Because of this, the cost of reviving this application should be borne by the Office of and Applicant requests a refund of the $810.00 petition fee." Petitioner further argues that the first Office action was mailed to an incorrect address of David B. Waller & Associates, "when Applicant had changed the address as required by the Office on 12/26/07 to Gordon & Rees." Additionally, petitioner states that a telephonic election was made on July 11, 2008 and the Examiner failed to record the telephonic election in the prosecution history.

A review of the record shows that on November 23, 2004 a preliminary amendment was filed. On September 20, 2005, a change of address was filed to David B. Waller & Associates. On September 26, 2005, May 25, 2006 and on March 7, 2007 a status inquiry was filed. On June 30, 2008, a Restriction/Election Requirement was mailed. A Notice of Abandonment was mailed on February 3, 2009.

With respect to the first Office action being forwarded to an incorrect address, the Office has no record of a change of address filed on December 26, 2007 to Gordon & Rees. Accordingly, the Restriction/Election Requirement mailed on June 30, 2008 was mailed to the correct address.

With respect to the cancelling of claims 1-11, a two page replacement abstract was filed on November 23, 2004, in which it mentions that claims 1-11 should be deleted and insert new claims 12-20. On June 30, 2008 a Restriction/Election Requirement was mailed.

The specification must commence on a separate sheet. Each sheet including part of the specification may not include other parts of the application or other information. The claim(s), abstract and sequence listing (if any) should not be included on a sheet including any other part of the application. See 37 CFR 1.71(f).

37 CFR 1.4(c) states, Since different matters may be considered by different branches or sections of the United States Patent and Trademark Office, each distinct subject, inquiry or order must be contained in a separate paper to avoid confusion and delay in answering papers dealing with different subjects.

With respect to the telephonic election, petitioner's attention is directed to 37 CFR 1.2 which states, 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.

In view of the above, this petition is properly treated as a petition under 37 CFR 1.137(b) and the petition fee of $810 is not refundable.

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 Office action; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

The Power of Attorney or Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address filed on March 31, 2009 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 3781 for review of the response filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Henry Hartmann, et. al.	:	
Application No. 10/996,398	:	DECISION ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. 00366.000195.	:	

This is a decision on the request filed October 24, 2006, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application. The delay in responding is regretted.

The petition is **GRANTED**.

This application was held abandoned for failure to file a reply to the final Office action mailed January 20, 2006. A Notice of Abandonment was mailed on October 6, 2006.

Petitioner states that a Request for Continued Examination (RCE) and one month extension of time were timely filed by hand delivery on May 19, 2006.

The Office concurs with petitioner, in that, a response was timely submitted to the Office on May 19, 2006, but the document contained the wrong application number; and as a result, the response was incorrectly matched to application No. 10/966,398 instead of 10/996,398.

Under current Office procedure, if a paper contains the incorrect application number, but contains sufficient information to identify the correct application and was timely filed, the holding of abandonment will be withdrawn. In reviewing the papers submitted, it is concluded that the information contained thereon (i.e., inventor's name, filing date and docket number) was sufficient to associate the papers with the above-identified application.

In view of the above, the petition is **GRANTED**. Accordingly, the holding of abandonment for failure to timely file a reply to the final Office action mailed January 20, 2006, is hereby withdrawn and the application is restored to pending status.

Petitioner is cautioned to ensure that the correct identifying data appears on all correspondence submitted to the USPTO to avoid situations of the nature which occurred in the present application.

This application file is being referred to Technology Center Art Unit 3683, for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted on April 20, 2006.

Telephone inquiries regarding this decision should be directed to Andrea Smith at (571) 272-3226. Questions concerning the processing of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

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HARNESS, DICKEY & PIERCE, PLC
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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OFFICE OF PETITIONS

In re Application of	:	
HARUYAMA, et al.	:	
Application No. 10/996,404	:	DECISION GRANTING PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2552-000071**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 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 September 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2837 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed 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.*

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RICHARD C. LITMAN
LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
ARLINGTON, VA 22215

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Edmond J. Gardner	:	DECISION ON PETITION
Application No. 10/996,436	:	TO MAKE SPECIAL UNDER
Filed: November 26, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. 25737.00	:	
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed November 26, 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 Edmond J. Gardner 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 3746 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/996,443	11/26/2004	Jerome Christian Dupuis	105297.1041	1019

7590 09/21/2007

Eugene F. Derenyi
Stikeman Elliott
1600-50 O'Connor Street
Ottawa, ON K1P 6L2
CANADA

EXAMINER
WHITTINGTON, KENNETH

ART UNIT	PAPER NUMBER
2862	

MAIL DATE	DELIVERY MODE
09/21/2007	PAPER

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

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

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United States Patent and Trademark Office
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www.uspto.gov

Eugene F. Derenyi
Stikeman Elliott
1600-50 O'Connor Street
Ottawa ON K1P 6L2 CA CANADA

SEP -7 2007

In re Application of:
DUPUIS *et al.*
Serial No.: 10/996,443
Filed: November 26, 2004
Attorney Docket No.: **105297.1041**

DECISION ACCEPTING PAPERS

This is a response to the petition filed on June 13, 2007, to accept a copy of a response, in place of the apparently lost original response, as timely.

The petition is to accept the copy of the response is granted.

A non-final Office action, setting a three (3) month period for response, was mailed on December 11, 2006. No Notice of Abandonment has been mailed.

The petitioner asserts that on April 11, 2007, a response to the non-final Office action including a request for a two (2) month extension of time was filed via facsimile. To support this assertion, petitioner has submitted a copy of a 56 page response, bearing a certificate under 37 CFR § 1.8(a) showing a date of transmission of April 11, 2007, a copy of a report from petitioner's facsimile machine which acknowledges satisfactory facsimile transmission of 56 pages to the PTO, a statement which attests to the previous timely transmission of the response to the PTO and a copy of the return receipt from the PTO which acknowledges satisfactory receipt of 56 pages.

A review of the application file record reveals that the above-identified response is not of record in the application file and cannot be located. However, 37 CFR § 1.8(b) provides for accepting a correspondence as being timely filed if it was mailed or transmitted in accordance with 37 CFR § 1.8(a), and is reproduced below:

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

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

The petition, meets the conditions of 37 CFR § 1.8(b) to establish the previous timely filing of the response. Accordingly, the petition is **granted,** and the copy of the response filed with the petition on June 13, 2007, is accepted since the original has been lost.

Inquiries regarding this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Andrew H. Hirshfeld, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

DECISION ON PETITION ROUTING SLIP

Application No.: 10996443

Art Unit: 2862

For Director's Secretary:

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

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

For TECH Support Staff:

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

SPRE No. 1:	SPRE No. 2:	SPRE No. 3:	SPRE No. 4:
Hien Phan SPRE Jeff-8D55 (571) 272-1606	Jose Dees SPRE Jeff-8D59 (571)272-1569	Clayton E. LaBalle SPRE Jeff-8D51 (571) 272-1594	Ed Westin SPRE Jeff-8D65 (571)272-1638

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Neifeld IP Law, P.C
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of
Telfair, Hoffman, Zenzie, Moulton, and Yoder
Application No. 10/996,458
Filed: November 26, 2004
Attorney Docket No. VISX0011U-US-C1
For: METHOD AND APPARATUS FOR REMOVING CORENAL TISSUE WITH INFRARED LASER RADITAION AND SHORT PULSE MID-INFRARED PARAMETRIC GENERATOR FOR SURGERY

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

This is a decision on the petition under 37 CFR 1.47(a) filed April 15, 2005.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on November 26, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and replacement drawings. The notice allowed a period for response of two months from its mailing date. On April 15, 2005, the instant petition was filed along with a request for an extension of time within the first month.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (2) as set forth above.

As to item (2), the declarations filed with the instant petition are not acceptable. Section 409.03(a) of the *Manual of Patent Examining Procedure* provides, in pertinent part, that:

> A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP § 602, § 605.01, and § 1414) and (2) make oath or declaration on behalf of the nonsigning joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the nonsigning inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor(s), unless otherwise indicated.

The joint inventors willing to join the application cannot be said to have signed the declaration on their behalf and on behalf of all the other joint inventors because:1) inventor Zenzie's declaration does not contain signature blocks for the other joint inventors, and 2) the declaration listing inventors Telfair, Hoffman, Moulton, and Zenzie does not include inventor Yoder in the "Full Name of Inventor(s)" section. Any renewed petition filed must be accompanied by a declaration that provides signature blocks for all the named inventors. If petitioner files separate declarations for the inventors, the declarations should be the identical in format—too avoid ambiguity—and provide signature blocks for all the joint inventors.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Neifeld IP Law, P.C
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of
Telfair, Hoffman, Zenzie, Moulton, and Yoder
Application No. 10/996,458
Filed: November 26, 2004
Attorney Docket No. VISX0011U-US-C1
For: METHOD AND APPARATUS FOR REMOVING CORENAL TISSUE WITH INFRARED LASER RADITAION AND SHORT PULSE MID-INFRARED PARAMETRIC GENERATOR FOR SURGERY

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

This is a decision on the renewed petition under 37 CFR 1.47(a) filed July 26, 2005.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on November 26, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and replacement drawings. The notice allowed a period for response of two months from its mailing date. On April 15, 2005, a petition under 37 CFR 1.47 was filed along with a request for an extension of time within the first month.

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

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

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

(3) the petition fee,

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

The instant petition lacks item (2) as set forth above.

As to item (2), the declarations filed with the instant renewed petition are not acceptable. It is noted that the declaration filed is titled "Declaration (37 CFR 1.63) for Utility or Design Application Using an Application Data Sheet (37 CFR 1.76)." A review of the record did not reveal an Application Data Sheet, however. Petitioner will note that when an application is not accompanied by an Application Data Sheet, 37 CFR 1.63 (c) requires that a declaration include: 1) the mailing address and residence of the inventors, and 2) any foreign application for patent (or inventor's certificate) for which a claim for priority is made pursuant to 37 CFR 1.55, and any foreign application having a filing date before that of the application on which priority is claimed. The declarations filed do not include the mailing addresses for the inventors. Petitioner is advised that mailing addresses will not be taken from the declarations filed on April 15, 2005, because those declarations are defective as indicated by the decision mailed May 26, 2005. Any renewed petition filed must be accompanied by declarations that comply with 37 CFR 1.63 and include the mailing addresses of all the joint inventors.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 272-8300
Attn: Office of Petitions

Telephone inquiries regarding 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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OFFICE OF PETITIONS

Neifeld IP Law, P.C
4813-B Eisenhower Avenue
Alexandria, VA 22304

In re Application of
Telfair, Hoffman, Zenzie, Moulton, and Yoder
Application No. 10/996,458
Filed: November 26, 2004
Attorney Docket No. VISX0011U-US-C1
For: METHOD AND APPARATUS FOR REMOVING CORENAL TISSUE WITH INFRARED LASER RADITAION AND SHORT PULSE MID-INFRARED PARAMETRIC GENERATOR FOR SURGERY

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

This is in response to the second renewed petition under 37 CFR 1.47(a), filed September 27, 2005.

The second renewed petition is **GRANTED**.

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

The above-identified application was filed on November 26, 2004, without a proper oath or declaration. On October 18, 2004, a "Notice to File Missing Parts of Nonprovisional Application" was mailed requiring a properly executed declaration, surcharge, and replacement drawings. The notice allowed a period for response of two months from its mailing date. On April 15, 2005, a petition under 37 CFR 1.47 was filed along with a request for an extension of time within the first month. The petition was dismissed by decision mailed May 26, 2005. A renewed petition was then filed on July 26, 2005, and dismissed by a decision mailed August 11, 2005. The second renewed petition was filed on September 27, 2005.

Petitioner has shown that inventor Hoffman has refused to join the 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.

Petitioner's arguments as to relevance of 37 CFR 1.63 to the circumstances presented by the petitions filed and the enforceability of the *Manual of Patent Examining Procedure* are noted. It is sufficient to state that the patenting process is governed by statutes, rules, and policies set and interpreted by the Commissioner; applicants are required to wholly comply with all applicable regulations in the prosecution of the application.

This application will be directed 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

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OFFICE OF PETITIONS

In re Application of	:	
DDAMULIRA et al.	:	
Application No. 10/996,481	:	DECISION DISMISSING PETITION
Filed: 11/24/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 789853/0013	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 15, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/749,683 filed December 30, 2003.

The petition is **DISMISSED**.

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

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

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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).

Furthermore, the amendment as drafted is unacceptable and is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either a Supplemental Application Data Sheet or a substitute amendment (complying with the provisions of 37 CFR 1.121, 37 CFR 1.76(b)(5) and 37 CFR 1.33(b)).[1] No additional petition fee is necessary on filing a renewed petition.

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

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

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

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

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Correspondence may also be submitted via EFS-Web.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK NY 10038

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APR 30 2008

OFFICE OF PETITIONS

In re Application of DDAMULIRA et al. Application No. 10/996,481 Filed: 11/24/2004 Attorney Docket No. 789853/0013	DECISION GRANTING PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 29, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/749,683, filed December 30, 2003, as set forth in the amendment filed with the renewed petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2839 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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
10/996,481	11/24/2004	1796	449	789853/0013	26	1

CONFIRMATION NO. 7954

CORRECTED FILING RECEIPT

26610
STROOCK & STROOCK & LAVAN LLP
180 MAIDEN LANE
NEW YORK, NY 10038

OC000000029669083

Date Mailed: 04/30/2008

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)

Robert Kintu Ddamulira, Chattanooga, TN;
John Edmund Raidy JR., Pasadena, CA;
Barry Kenneth Wright, Rosewell, GA;
Darwin Carles Regis, Lakewood, CA;

Assignment For Published Patent Application

W.F. Taylor Co., Inc.

Power of Attorney:

Lawrence Rosenthal--24377
Steven Pokotilow--26405
David Schaeffer--32716
Matthew Siegal--32941
James DeCarlo--36120

Domestic Priority data as claimed by applicant

This application is a CIP of 10/749,683 12/30/2003 PAT 6,881,775
which is a CON of 10/126,146 04/19/2002 PAT 6,706,789
which claims benefit of 60/284,954 04/19/2001

Foreign Applications

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 **US 10/996,481**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Low emissions one part adhesive

Preliminary Class

524

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

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OSHA LIANG LLP/Oracle
TWO HOUSTON CENTER
909 FANNIN, SUITE 3500
HOUSTON, TX 77010

Mail Date: 04/20/2010

Applicant	: Christine H. Flood	: DECISION ON REQUEST FOR
Patent Number	: 7640544	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,508	: 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 **1436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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SEP 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Maguire, et al.	:	
Filed: November 24, 2004	:	ON PETITION
Application No. 10/996,523	:	
Dkt. No.: ATR-56CON	:	

This decision is in response to the "PETITION PURSUANT TO 37 CFR 1.182/PRELIMINARY AMENDMENT-RESPONSE TO NOTICE TO FILE CORRECTED APPLICATION PAPERS," filed February 24, 2005.

The application was filed November 24, 2004. On January 4, 2005, the Initial Patent Examination Division mailed a Notice of File Corrected Application Papers("Notice") stating that the application had been accorded a filing date, but that Figures 18, 21A-C, 22A-B, 23A-D described in the specification appeared to have been omitted.

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

Petitioners argue that the figures in question were submitted with the application upon filing and that said figures were incorporated by reference into the disclosure of the instant application as the instant application is a continuation of U.S. App. No. 10/274,742.

Petitioners' arguments have been considered and are found persuasive. In accordance with MPEP 201.06(c), an applicant may incorporate by reference a prior filed application by including, in the application-as-filed, a statement that such application(s) is incorporated by reference. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the application to include any subject matter in such prior application(s) without the need for a petition.

In view thereof, the instant petition is DISMISSED AS MOOT.

In view of the incorporation by reference of the prior application, Figures 18, 21A-C, 22A-B, 23A-D are not new matter if said figures was part of the disclosure of the prior application. However, the figures submitted with the instant petition have not been entered into the record.

To avoid further delay in the examination of the application, a preliminary amendment amending the application to include the missing figures should be submitted prior to the issuance of the first office action on the merits.

This application is being returned to the Office of Initial Patent Examination for further processing with a filing date of November 24, 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

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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FRANCIS C. HAND, ESQ.
C/O CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI,
STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

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JUN 17 2009

OFFICE OF PETITIONS

In re Application of
Buddy Harry Bussey, III, et al.
Application No. 10/996,531
Filed: November 24, 2004
Attorney Docket No. None

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before March 30, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed December 30, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on March 31, 2009. A Notice of Abandonment was mailed on April 27, 2009. On May 5, 2009 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3-4-09

TO SPE OF : ART UNIT 3746

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/996539 Patent No.: 7478994

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

Should claim be claim 2?

E. Flemes
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: Changes are OK

3/30/09 3746
SPE **Art Unit**

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Alexandria, VA 22313-1450
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WORKMAN NYDEGGER/MICROSOFT
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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SEP 18 2009

OFFICE OF PETITIONS

DECISION

In re Application of :
Rhoten, et al. :
Application No. 10/996,557 :
Filed: 23 November, 2004 :
Attorney Docket No. 13768.783.67 :

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 6 November, 2008, with reply due absent extension of time on or before 6 February, 2009.

The application went abandoned by operation of law after midnight 6 February, 2009.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

Following the filing of Information Disclosure Statements (IDS) on 18 November, 2008 and 13 March, 2009, on 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an amendment and made the statement of unintentional delay.

(The request and fee for extension of time filed after expiration of the statutory period of reply are not proper. The fee will be refunded. Should Petitioner later find that the fee has not been refunded, Petitioner should file a request with the Office of Finance and submit with it a copy of this decision.)

The Office mailed the Notice of Abandonment on 16 June, 2009.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2194 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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

In re Application of	:	
Shraim et al.	:	
Application No. 10/996,567	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040246-000510US	:	

This is a decision on the petition, filed September 15, 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 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 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2135 for examination in due course.

Charlema R. Grant

Charlema R. Grant
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.
10/996,567	11/23/2004	Ihab Shraim	040246-000510US

CONFIRMATION NO. 6805

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

Date Mailed: 09/14/2007

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

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

The projected publication date is 12/20/2007.

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

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

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

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

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

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OFFICE OF PETITIONS

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

In re Application of	:	
Shraim et al.	:	
Application No. 10/996,568	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040246-001200US	:	

This is a decision on the petition, filed September 15, 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 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 accompanies this decision on petition.

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

This application is being forwarded to Technology Center Art Unit 2142 for examination in due course.

Charlema R. Grant

Charlema R. Grant
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
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/996,568	11/23/2004	Ihab Shraim	040246-001200US

CONFIRMATION NO. 6809

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

Date Mailed: 09/14/2007

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

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

The projected publication date is 12/20/2007.

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

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

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

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

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

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APR - 7 2005

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:
Marc Bellotti et al	:
Serial No.: 10/996,570	: PETITION TO MAKE SPECIAL
Filed: November 23, 2004	:
Attorney Docket No.: 13131-0332	:

This is in response to applicants' petition filed November 23, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

It is not clear what section of M.P.E.P. 708.02 applicants are relying on as the basis for their petition. A review of the petition does not show compliance with any of the sections of M.P.E.P. 708.02. In the absence of any specific section, section VIII is normally considered. However, applicants have not satisfied the provisions set forth in M.P.E.P. 708.02, VIII. Therefor the petition is **DISMISSED**.

Applicants may file a renewed petition to make special clarifying the grounds on which the petition is based without additional fee. However any renewed petition must be filed within TWO MONTHS in order to be considered timely.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUG 8 2005

JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
ATLANTA GA 30309

In re Application of	:
Marc Bellotti et al	:
Serial No.: 10/996,570	: PETITION TO MAKE SPECIAL
Filed: November 23, 2004	:
Attorney Docket No.: 13131-0332	:

This is in response to the petition filed July 21, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

CHRISTIE PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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SEP 11 2008

In re Application of :
Dong-Yong Shin :
Application No. 10/996,571 : ON PETITION
Filed: November 22, 2004 :
Attorney Docket No. 53753/P849

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 11, 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 2629 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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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JUN 06 2005

OFFICE OF PETITIONS

In re Application of :
Karl Bruce Thor :
Application No. 10/996,587 : ON PETITION
Filed: February 24, 2004 :
For: METHODS OF USING :
RAPID-ONSET SELECTIVE SEROTONIN :
REUPTAKE INHIBITORS FOR TREATING :
SEXUAL DYSFUNCTION :

This is a decision on the Petition for Filing Date of Nonprovisional APplication, filed May 2, 2005, requesting the application be accorded a filing date of November 24, 2004, including drawings.

The petition is **granted**.

The application was filed on November 24, 2004. However, on February 16, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application, noting that a filing date had NOT been accorded the application because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that drawings in the above-identified application were incorporated by reference.

Applicant is advised that a petition is not necessary in this instance to add the drawings. The drawings may be entered by the primary examiner without a petition so long as the drawings are not new matter. See, MPEP § 608.02(a). Applicants may add figure(s) described in the specification on the basis that the drawings are not new matter.

MPEP 201.06(c) states:

> . . . an applicant may incorporate by reference the prior application by including, in the continuation or divisional application-as-filed, a statement that such

> specifically enumerated prior application or applications are 'hereby incorporated by 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 continuation or divisional application to include any subject matter in such prior application(s), without the need for a petition provided the continuation or divisional application is entitled to a filing date notwithstanding the incorporation by reference. (emphasis supplied).

The petition fee will not be refunded, since the petition was not necessitated by any error on the part of the USPTO.

The application will be returned to the Office of Initial Patent Examination for further processing as a nonprovisional application with a filing date of November 24, 2004, using the application papers filed on that date.

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

Derek L. Woods
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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HAYNES AND BOONE, LLP
IP Section
2323 Victory Avenue
Suite 700
Dallas TX 75219

MAILED

JUL 20 2009

OFFICE OF PETITIONS

In re Application of
Wehnes, et al.
Application No. 10/996,595
Filed: November 23, 2004
Attorney Docket No. 30362.5
For: CAD MEDICAL IMAGING SYSTEM, COMPONENTS, AND METHOD OF OPERATION

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 15, 2009, requesting that the Office withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned for failure to respond in a timely manner to the non-final Office action, mailed October 2, 2008, which set forth an extendable three (3) month period for reply. The Office contended that this application became abandoned on January 3, 2009 for failure to reply to the October 2, 2008 non-final Office action. A Notice of Abandonment was mailed on April 9, 2009.

Petitioners request withdrawal of the holding of abandonment based on the assertion that a request for a three month extension of time and an amendment were timely received in the Office on April 2, 2009. The undersigned finds this argument completely convincing, as these documents are present in the application file and Office financial records shows that the required three month extension of time fee was charged on April 6, 2009. The mailroom date for the payment was April 2, 2009. Therefore, the three month extension of time and amendment were timely filed.

The petition under 37 CFR 1.181 is **granted**, the holding of abandonment is withdrawn, and the April 9, 2009 Notice of Abandonment is **vacated**. No petition fee has been or will be charged in connection with this matter.

On February 9, 2009, the correspondence address and power of attorney was changed to customer number 27683. The application file does not indicate a change of address has since 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.

After the mailing of this decision, the application file will be referred to Technology Center A.U. 2624 for consideration of the amendment filed on April 2, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: THE LAW OFFICE OF JAMES E. HARRIS
P.O. BOX 160967
AUSTIN, TX 78716

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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HAYNES AND BOONE, LLP
IP SECTION
2323 VICTORY AVENUE
SUITE 700
DALLAS TX 75219

MAILED

APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
WEHNES, Jeffrey C. et al.	:	
Application No. 10/996,595	:	DECISION ON PETITION
Filed: November 23. 2004	:	TO WITHDRAW
Attorney Docket No. **30362.5**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 26, 2010.

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) and (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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOHN A PARRISH
TWO BALA PLAZA
SUITE 300
BALA CYNWYD PA 19004

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MAY 1 1 2006

OFFICE OF PETITIONS

In re Application of	:
Trollier-McKinstry, et al.	:
Application No. 10/996,604	: DECISION GRANTING
Filed: November 26, 2004	: PETITION
Attorney Docket No. PSU-015	:

This is a decision on the petition to revive pursuant to 37 CFR 1.137(b), filed April 5, 2006.

The petition is **GRANTED**.

The application was filed on November 26, 2004. However, on July 18, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application, stating that the application had been accorded a filing date. However, the statutory basic filing fee, oath or declaration, and additional claims fees were missing.

With the instant petition, petitioner paid the petition fee, submitted the missing items required by the Notice, and made the proper statement of unintentional delay.

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

Telephone inquiries specific to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SAWYER LAW GROUP, LLP
PO BOX 51418
PALO ALTO, CA 94303

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JUL 07 2008

In re Application of	:	
Mahesh Siddappa	:	
Application No. 10/996,640	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 3238P	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 2, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Sawyer Law Group, LLP has been revoked by the assignee of the patent application on February 27, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHWEGMAN, LUNDBERG & WOESSNER / ATMEL
PO BOX 2938
MINNEAPOLIS, MN 55402

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Ihab Shraim et al	:	
Application No. 10/996,646	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040246-000800US	:	

This is a decision on the petition, filed September 15, 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 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 May 10, 2007 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 2157 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMAS LOOP
P.O. BOX 21466
SEATTLE WA 98111

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OCT 27 2006
OFFICE OF PETITIONS

In re Application of :
Leroy J. Ohlsen et al :
Application No. 10/996,647 :
Filed: November 23, 2004 :
Attorney Docket No. 690089.401D2 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 9, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal

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[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.

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(s)(1).

The declaration submitted with the instant petition is signed by only one inventor. If appropriate, applicant should submit a petition under 37 C.F.R. 1.48 to correct the inventive entity. Also, the declaration submitted with the above petition reference Application No. 10/966,647 instead of 10/996,647.

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

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

By hand: Customer Window located at:

Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THOMAS LOOP
P.O. BOX 21466
SEATTLE WA 98111

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FEB 01 2007

OFFICE OF PETITIONS

In re Application of	:	
Leroy J. Ohlsen et al	:	
Application No. 10/996,647	:	DECISION GRANTING PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 690089.401D2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed January 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a declaration; petition for an extension of time and a petition under 37 CFR 1.48(b); (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of October 3, 2005 and the Supplemental Notice of Allowability of February 2, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 1746 to consider the petition under 37 CFR 1.48(b).

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SNELL & WILMER L.L.P.(Main)
400 EAST VAN BUREN
ONE ARIZONA CENTER
PHOENIX AZ 85004-2202

MAILED

APR 14 2009

OFFICE OF PETITIONS

In re Application of John WILSON Application No. 10/996,655 Filed: November 24, 2004 Attorney Docket No. **49783.1000**	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 09, 2008, which set a shortened statutory period for reply of three (3) months. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 $1620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of July 09, 2008 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2838 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.

Michelle R. Eason

Michelle R. Eason
Paralegal Specialist
Office of Petition

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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HOWREY LLP - East
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DR, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Gregg Borgeson	: DECISION ON REQUEST FOR
Patent Number	: 7644020	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,680	: 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 **312** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Louis T. Isaf
Womble Carlyle Sandridge & Rice, PLLC
P.O. Box 7037
Atlanta, GA 30357-0037

MAILED

APR 13 2005

Director's Office
Group 3700

In re application of Clyde C. Bryant	:	**DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)**
Serial Number: 10/996695 Filed: November 23, 2004	:	

For: **IMPROVED INTERNAL COMBUSTION ENGINE AND WORKING CYCLE**

This is a decision on the petition filed on November 23, 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: 4/12/05

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DEC 3 0 2005

OFFICE OF PETITIONS

WOMBLE CARLYLE SANDRIDGE & RICE
P.O. BOX 7037
ATLANTA GA 30357-0037

In re Application of :
Clyde C. Bryant :
Application No. 10/996,695 : ON PETITION
Filed: November 23, 2004 :
Attorney Docket No. E025 1032 :

This is a decision on the petition, filed December 20, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 18, 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 3748 will consider the request for continued examination under 37 CFR 1.114.

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

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

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Ulbrich I.P., Ltd
7234 W. Timber Ln.
Maple Grove MN 55369

COPY MAILED
DEC 10 2009
OFFICE OF PETITIONS

In re Application of	:	
Russell Zilles et al.	:	
Application No. 10/996,696	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 2482.05US01	:	

This is a decision on the petition under 37 CFR 1.182, filed October 19, 2005, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

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

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

Chris Bottorff
Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/996,696	11/24/2004	2614	748	2482.05US01	52	3

CONFIRMATION NO. 9515

CORRECTED FILING RECEIPT

87197
Ulbrich I.P., Ltd
7234 W. Timber Ln.
Maple Grove, MN 55369

OC000000039166464

Date Mailed: 12/10/2009

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)

Russell Zilles, Woodbury, MN;
Bill Coleman, Saint Paul, MN;
Shan Brickey, Lake Elmo, MN;
Drew Koenig, Blaine, MN;

Power of Attorney: The patent practitioners associated with Customer Number 87197

Domestic Priority data as claimed by applicant

Foreign Applications

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 **US 10/996,696**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

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

Title

INTERACTIVE METHOD AND SYSTEM OF TESTING AN AUTOMATED CALL TELEPHONIC COMMUNICATION SYSTEM

Preliminary Class

379

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

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October 9, 2008

D. Bruce Prout
Christie, Parker & Hale, LLP
P. O. Box 7068
Pasadena, CA 91109-7068

Patent No: 7,326,498 B2
Application No: 10/996,724
Applicant: Yong-Chul Park, et al.
Issued: February 5, 2008
Title: **METHOD FOR PREPARING POSITIVE ACTIVE MATERIAL FOR RECHARGEABLE LITHIUM BATTERY AND POSITIVE ACTIVE MATERIAL PREPARED BY SAME**

Request for Certificate 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 Rule 1.322 or 1.323.

Comparison of the patent in column 12, lines 7 and 9, with the corresponding location in the application file reveals that there is no discrepancy.

In view of the foregoing your request in these matters are hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & certificated of Correction Branch.

A certificate of correction will be issued to correct the remaining errors mentioned in your request.

Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(703) 308-8309 or (703) 308-9390 ext. 113

vt

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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AT&T Legal Department - JW
Attn: Patent Docketing
Room 2A-207
One AT&T Way
Bedminster NJ 07921

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of	:	
Marc Sullivan et al	:	
Application No. 10/996,726	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 130332.00074	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 17, 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 January 22, 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 March 23, 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 amendments, remarks, a Request for Continued Examination, and the $810 filing fee; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Appeal of January 22, 2009 is accepted as having been unintentionally delayed.

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

Telephone inquiries concerning this decision should be directed to David Bucci at (571) 272-7099 or in his absence to Ariana Zimbouski at (571)-272-6739.

This application is being referred to Technology Center AU 2162 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

CC: **Joseph P. Lally**
100 Congress Avenue, Suite 1100
Austin, Texas 78701

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RAYTHEON COMPANY
2000 EAST EL SEGUNDO BOULEVARD
MAIL STOP EO/E04/N119
PO BOX 902
EL SEGUNDO CA 90245

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APR 0 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Roger Willard Ball	:	DECISION ON PETITION
Application No. 10/996,728	:	
Filed: 24 November, 2004	:	
Atty Docket No. 04W112	:	

This is a decision on the petition, filed on 13 January, 2006, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 1 November, 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.

It is noted that petitioner filed a Request to Rescind the Nonpublication Request on 6 January, 2006. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, showing the projected publication date of 25 May, 2006, was mailed on 11 January, 2006.

The application is being referred to Technology Center Art Unit 3641 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Mark D. Callaghan	: DECISION ON REQUEST FOR
Patent Number	: 7587396	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,742	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **646** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Brian Judd	:	
Application No. 10/996,747	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. JUDD01	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 29, 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 June 30, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 1, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 2837 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.

Irvin Dingle
Petition 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
10/996,747	11/24/2004	Brian Judd	JUDD01

CONFIRMATION NO. 8361

POA ACCEPTANCE LETTER

22862
GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

OC000000034260977

Date Mailed: 01/28/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2008.

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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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/996,747	11/24/2004	Brian Judd	JUDD01

CONFIRMATION NO. 8361

POWER OF ATTORNEY NOTICE

36297
BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
PO BOX 210459
SAN FRANCISCO, CA 94121-0459

OC000000034260922

Date Mailed: 01/28/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/05/2008.

- 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).

/idingle/

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

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of :
Karl Bruce Thor :
Application No. 10/996,757 :
Filed: November 24, 2004 :
Attorney Docket No. 4220-78-PUS-1 :

DECISION GRANTING PETITION

This is a decision on the petition filed May 20, 2005, that is responsive to the "Notice of Incomplete Reply" (the "Notice") mailed May 3, 2005.

On November 24, 2004, the application was deposited.

On May 3, 2005, the Office of Initial Patent Examination mailed the Notice stating that a filing date had not been accorded the application because no drawings were found with the application, but appeared to be necessary to understand the invention claimed. The Notice allowed a non-extendable period for response of two months from its mailing date. The instant petition was filed on May 20, 2005. Petitioner argues that the subject application incorporated by reference a prior application in its entirety that contained the drawings and, therefore, the application was complete on filing and should be accorded a filing date of November 24, 2004.

In this case, however, it has been determined that drawings are not necessary to understand at least one claim within the meaning of the first sentence of 35 USC 113. It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence). A review of the record reveals that Claims 1and 6 are method claims. Therefore, the present application is deemed to be an application that does not require drawings for an understanding of the invention. Accordingly, the application, as filed, was entitled to the filing date of November 24, 2004. Prior to the first action on the merits, petitioner should file a preliminary amendment requesting entry of the omitted drawings.

The fee of $130.00 remitted on May 20, 2005, will be refunded, in due course.

The application is being forwarded to the Office of Initial Patent Examination for further processing with a filing date of November 24, 2004. The Office of Initial Patent Examination will issue a filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DIW Aug-06

ROHM AND HAAS COMPANY
PATENT DEPARTMENT
100 INDEPENDENCE MALL WEST
PHILADELPHIA PA 19106-2399

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AUG 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Solomon et al.	:	
Application No. 10/996,775	:	DECISION ON PETITION
Filed: 24 November, 2004	:	
Atty Docket No. A01239B	:	

This is a decision on the petition filed on 24 March, 2006 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 January, 2006, for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 13 October, 2005, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 1 March, 2006.

---

[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)).

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

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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COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA PA 19103-2212

MAIL

JUN 0 2 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
Eric Eckstein, et al. :
Application No. 10/996,785 :
Filed: November 24, 2004 :
For: **TAG HAVING PATTERNED CIRCUIT ELEMENTS AND A PROCESS FOR MAKING SAME** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed May 9, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Mailed: 12-18-06

In re application of	:	
Eckstein, Eric	:	DECISION ON
Serial No. 10/996,786	:	PETITION
Filed: November 24, 2004	:	
For: SECURITY TAG SYSTEM	:	

This is a response to applicant's petition under 37 C.F.R. 1.102(d) on July 10, 2006.

37 CFR 1.102. Advancement of examination.

(a)Applications will not be advanced out of turn for examination or for further action except as provided by this part, or upon order of the Director to expedite the business of the Office, or upon filing of a request under paragraph (b) of this section or upon filing a petition under paragraphs (c) or (d) of this section with a showing which, in the opinion of the Director, will justify so advancing it.

(b)Applications wherein the inventions are deemed of peculiar importance to some branch of the public service and the head of some department of the Government requests immediate action for that reason, may be advanced for examination.

(c)A petition to make an application special may be filed without a fee if the basis for the petition is:

(1)The applicant's age or health; or

(2)That the invention will materially:

(i)Enhance the quality of the environment;

(ii)Contribute to the development or conservation of energy resources; or

(iii)Contribute to countering terrorism.

(d)A petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

An application may be granted special status provided that applicant complies with each of the following items:

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

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

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

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

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

DECISION

A review of the application discloses that the application has been acted on by the examiner before consideration of this petition .

The Petition is **DISMISSED**.

Please note that effective August 25, 2006, the rules for a petition to make special have changed. Any resubmission by the applicant must comply with the new rules.

A grantable petition to make special under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), must satisfy the following conditions:

I. Conditions Regarding the Application:

1. the application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);

2. the application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours.

3. at the time of filing, the application must be complete under 37 CFR 1.51 and in condition for examination;

4. the application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

II. Conditions Regarding the Petition:

The petition must:

1. be filed with the application;

2. include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application;

3. include a statement that applicant agrees to make an election without traverse in a telephone interview.

4. include a statement that applicant agrees to conduct such an interview when requested by the examiner.

5. include a statement, made based on a good faith belief, that a preexamination search in compliance with the following requirements, was conducted, including an identification of the filed of search by United States class and subclass, where applicable, and for database searches, the search logic or chemical structure or sequence used as a query, the name of the file(s) searched and the database service, and the date of the search.

The preexamination search must:

5.1 involve U.S. patents and patent application publications, foreign patent documents, and non-patent literature, unless the applicant can justify with reasonable certainty that no references more pertinent than those already identified are likely to be found in the eliminated sources and includes such a justification with this statement;

5.2. be directed to the claimed invention and encompass all of the features of the claims, giving the claims the broadest reasonable expectation;

5.3. encompass the disclosed features that may be claimed.

6. must provide in support of the petition an accelerated examination support document. An accelerated examination support document must include:

6.1. an information disclosure statement (IDS) in compliance with 37 CFR 1.98 citing each reference deemed most closely related to the subject matter of each of the claims;

6.2. an identification of all the limitations in the claims that are disclosed by the reference specifying where the limitation is disclosed in the cited reference;

6.3. a detailed explanation of how each of the claims are patentable over the references cited with particularity required by 37 CFR 1.111(b) and (c);

6.4. a concise statement of the utility of the invention as defined in each of the independent claims (unless the application is a design application);

6.5. a showing of where each limitation of the claims finds support under 35 USC 112, first paragraph, in the written description of the specification. If applicable, the showing must also identify: (1) each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; and (2) the structure, material, or acts in the specification that corresponds to each means- (or step) plus-function claim element that invokes consideration under 35 UDC 112, sixth paragraph; if the application claims the benefit of one or more applications under title 35, United States Code, the showing must also include where each limitation of the claims finds support under 35 USC 112, first paragraph, in each such application in which such supports exists;

6.6. an identification of any cited references that may be disqualified under 35 USC 103(c).

William Krynski, SPRE
Technology Center 1700
Chemical and Materials Engineering

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
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OFFICE OF PETITIONS

In re Application of
Timothy Mark Gilles et al.
Application No. 10/996,790
Filed: November 22, 2004
Attorney Docket No.: 8285-719

ON PETITION

This is a decision on the petition filed February 7, 2005 to add Figures 6 and 7 while maintaining the original filing date of the application. The petition is treated under 37 CFR 1.182.

A "Notice of Omitted Item(s) in a Nonprovisional Application" was mailed January 21, 2005, advising that the application had been accorded a filing date of November 22, 2004 but that Figures 6 and 7 appeared to have been omitted.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

Petitioner seeks to amend the application to include Figures 6 and 7 and to maintain the original filing date or in the alternative to accept the date of the submission on petition as the filing date.

In this case, petitioners argue that the instant application incorporated three applications by reference; application nos. 10/126,923, 09/563,319 and 09/055,846.

However, petitioners also state that while the specifications of the three related cases are identical to the specification in the instant case, Figures 6 and 7 are not new matter but were not a part of the related cases.

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such prior application(s), without the need for a petition. (emphasis supplied)

In view of claim that Figures 6 and 7 were not a part of the three related cases, reliance on the incorporation by reference is irrelevant and inappropriate. Therein, since this petition seeks to amend the application to include the drawings, no petition under 37 CFR 1.182 is necessary for that purpose. New drawings may be entered by the primary examiner without petition so long as the new drawings contain no new matter. See MPEP § 608.02(a).

As well, and in view thereof, this decision need not address the alternative request to accord the instant application a filing date commensurate with the date of filing the omitted drawings and the instant petition.

Accordingly, the petition is **DISMISSED**.

The application is being returned to the Office of Initial Patent Examination for further processing with the filing date as originally accorded, November 22, 2004 but without Figures 6 and 7 as a part of the original disclosure. Thereafter, the application will be forwarded to the appropriate group art unit for consideration by the examiner of the petition filed February 7, 2005, as an amendment requesting the entry of Figures 6 and 7.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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NOV 03 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Ward & Olivo
708 Third Avenue
New York NY 10017

In re Application of: Stephen Hodge, et al. Serial No.: 10/996,795 Filed: November 24, 2004 Docket: 936-025 Title: ELECTRONIC MESSAGE EXCHANGE	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02

This is a decision on the petition filed on September 11, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the application, the petition and the required fees were not filed together

electronically using the USPTO's electronic filing system (EFS), or EFS-web; and because the application does not contain twenty or fewer total claims directed to a single invention.

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

Any inquiry regarding this decision should be directed to Krista Zele, Special Program Examiner, at (571) 272-7288.

Krista Zele
Special Program Examiner
Technology Center 2600

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
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1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of
Marnay et al.
Application No. 10/996,797
Filed: November 26, 2004
Attorney Docket No. P08449US00/MP

DECISION ON PETITION

This is a decision on the petition filed on March 28, 2005, requesting that the United States Patent and Trademark Office (Office) accord the above-identified application a filing date of November 26, 2004, with pages 28 and 29 of the specification 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 26, 2004, applicants filed the above-identified application. On January 26, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application, stating, *inter alia*, that the application had been accorded a filing date of November 26, 2004, and advising applicants that pages 28, 29 and 30 of the specification appeared to have been omitted.

In response, on Monday, March 28, 2005, applicants filed the present petition, copies of pages 28 (claims) and 29 (abstract) of the specification, and a $130.00 petition fee. Additionally, applicants submitted a copy of their date-stamped Utility Patent Application Transmittal, acknowledging receipt of "Specification [total pages = 30]," "Drawings [total sheets = 15]," and 37 total claims in the Office on November 26, 2004.

In the present petition, applicants asserted that they "submitted 30 total sheets upon filing of the application on November 26, 2004, including a cover sheet and pages 1-29 (specification, claims and abstract)" and that the USPTO did not have pages 28 and 29. Applicants stated: "As proof that these pages were submitted, attached is a copy of the Utility Patent Application Transmittal sheet stamped as received on November 26, 2004 and stating that 30 pages were submitted (which included the transmittal sheet) and that 37 claims were submitted (the last claims 34-37 are on page 28 which is one of the missing pages)."

Upon review of the record, the evidence is persuasive that the application papers deposited on November 26, 2004, included pages 28 and 29, which were subsequently misplaced in the USPTO. Therefore, the application, including pages 28 and 29 of the specification, was complete on filing and will be granted a filing date of November 26, 2004.

Accordingly, the petition is granted.

The requirement for pages 28, 29 and 30 of the specification set forth in the Notice to File Missing Parts was sent in error and is hereby withdrawn. Accordingly, the $130.00 petition fee is unnecessary and will be refunded to applicants' credit card.

The Office of Initial Patent Examination is instructed **to accord the application a filing date of November 26, 2004,** using the application papers submitted on that date, and pages 28 and 29 of the specification submitted with the petition on March 28, 2005.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FULBRIGHT AND JAWORSKI LLP
555 S. FLOWER STREET, 41ST FLOOR
LOS ANGELES CA 90071

In re Application of	:	
Behnke, Stevens and Hartjes	:	DECISION ACCORDING STATUS
Application No. 10/996,798	:	UNDER 37 CFR 1.47(a)
Filed: November 23, 2004	:	
Attorney Docket No. 4747-141/10413258	:	
For: Apparatus and Method for Packaging	:	
Sheet Material	:	

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OFFICE OF PETITIONS

This is in response to the petition under 37 CFR 1.47(a), filed on April 27, 2005. The present petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

The petition is granted.

Applicant showed that Eric L. Stevens, the non-signing inventor, refused to join in the filing of the above-identified application after applicant mailed him the application papers. Specifically, the statement of facts of Mary E. Eckert established that applicant mailed the application papers via Federal Express to the last known address of the non-signing inventor. Ms. Eckert asserted that she received an email from Federal Express, indicating that the package had been delivered. Furthermore, Ms. Eckert stated she called the inventor and left two voice messages for him; however, he did not return either call.

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

The matter is being referred to the Office of Initial Patent Examination for further processing.

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Eric L. Stevens
704 West Main Street
Middleville, MI 49333

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OFFICE OF PETITIONS

In re Application of :
Behnke, Stevens and Hartjes :
Application No. 10/996,798 : LETTER
Filed: November 23, 2004 :
Attorney Docket No. 4747-141/10413258 :
For: Apparatus and Method for Packaging :
Sheet Material :

Dear Mr. Stevens:

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

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

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

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

FULBRIGHT AND JAWORSKI LLP
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LOS ANGELES CA 90071

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OHLANDT, GREELEY, RUGGIERO & PERLE, LLP
ONE LANDMARK SQUARE, 10TH FLOOR
STAMFORD CT 06901

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of
Moshe Wasserblat, et al.
Application No. 10/996,811
Filed: November 23, 2004
Attorney Docket No. B-5610 622333-9

ON PETITION

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed April 11, 2008. This decision precedes the mailing of a Notice of Abandonment. On June 16, 2009, the present petition was filed.

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

The application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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Commissioner for Patents
United States Patent and Trademark Office
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Ward & Olivo
382 Springfield Avenue
Summit NJ 07901

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JUL 0 7 2008

OFFICE OF PETITIONS

In re Application of
Rathus, et al.
Application No. 10/996,817
Filed: November 24, 2004
Attorney Docket No. MIT-001//553-001
For: METHOD AND APPARATUS FOR ACCESSING ELECTRONIC DATA ABOUT AT LEAST ONE PERSON OF INTEREST

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed May 19, 2008 (certificate of mailing date May 13, 2008), to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned due to applicants' alleged failure to properly reply to the final Office action, mailed September 26, 2007. Applicants filed an amendment after final on November 28, 2007 (certificate of mailing date November 26, 2007) The amendment failed to place the application in prima facie condition for allowance, as was explained in the December 27, 2007 Advisory action. The Office contended that this application became abandoned on November 27, 2007. A Notice of Abandonment was mailed on April 1, 2008.

Petitioners assert that a proper reply was timely filed on certificate of mailing date March 26, 2008 and received in the Office on March 28, 2008. In support of this assertion, petitioners have provided a copy of applicants' response that contains a proper certificate of mailing bearing a March 26, 2008 date of deposit. It is noted that the March 26, 2008 correspondence is present in the application file.

Under 37 C.F.R. § 1.8(a)(1) correspondence is considered timely if: (1) the correspondence is mailed or transmitted prior to expiration of the set period for response by being properly addressed to the Patent and Trademark Office as set out in 37 C.F.R. § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail or transmitted to the Patent and

Trademark Office in accordance with 37 C.F.R. § 1.6(d); and (2) the correspondence includes a certificate for each piece of correspondence stating the date of deposit or transmission. The person signing the certificate should have a reasonable basis to expect that the correspondence would be mailed or transmitted on or before the date indicated.

The itemized Transmittal Form for the March 26, 2008 mailing bears a proper certificate of mailing, dated March 26, 2008, in compliance with the requirements of 37 C.F.R. § 1.8(a)(1) as set forth above. It lists an RCE, an amendment, an extension of time request, a fee transmittal form, and a return receipt post card. A review of financial records for the application reveals that the Office negotiated applicants' check(s) for the 3 month extension of time and the RCE on March 31, 2008.

Accordingly, the petition under 37 CFR 1.181 is **GRANTED**, the holding of abandonment is withdrawn, and the April 1, 2008 Notice of Abandonment is vacated. Applicants properly responded to the final amendment in a timely manner.

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.

After the mailing of this decision, the application file will be returned to Technology Center AU 2612 for consideration of the RCE and amendment, filed March 28, 2008 (certificate of mailing date March 26, 2008).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

CC: MICHAEL G. GABRIEL
WARD & OLIVO
380 MADISON AVENUE
NEW YORK NY 10017

OIPE IAP79
MAY 19 2008
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Spencer A. Rathus, *et al.*

Serial No.: 10/996,817 — Group Art Unit: 2612

Filed: November 24, 2004 — Examiner: Au, Scott D.

For: METHOD AND APPARATUS FOR ACCESSING ELECTRONIC DATA ABOUT AT LEAST ONE PERSON OF INTERST — Attorney Docket No. 553-001

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

07/07/2008 CKHLOK 00000006 10996817
01 FC:2801 405.00 OP
02 FC:2253 525.00 OP

PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. § 1.181

S I R:

Applicants respectfully request that the above-referenced application, improperly abandoned by the Patent and Trademark Office pursuant to a Notice of Abandonment dated April 1, 2008, be revived for the reasons stated in the attached Declaration Attesting to Mailing of Patent Office Correspondence by the undersigned attorney. No fee is required as the abandonment was not the result of any error by the Applicants.

Adjustment date: 07/07/2008 CKHLOK
03/31/2008 HDESTA1 00000035 10996817
02 FC:2253 -525.00 OP

Respectfully submitted,

Date: 5/12/08

By _____

Michael G. Gabriel
Reg. No. 54,107
WARD & OLIVO
380 Madison Avenue
New York, New York 10017
(212) 697-6262

Adjustment date: 07/07/2008 CKHLOK
03/31/2008 HDESTA1 00000035 10996817
01 FC:2801 -405.00 OP

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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 REFUSING STATUS
Application No. 10/996,819 : UNDER 37 CFR 1.47(a)
Filed: November 23, 2004 :
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 instant 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 surcharge.

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

The instant petition fails to satisfy requirements (1) and (2) set forth above.

As to item (1), petitioners have failed to establish that the non-signing inventors refused to execute the declaration after having been presented with a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

The statement of facts by Jennifer Brooks states that the non-signing inventors were forwarded a declaration and power of attorney on several occasions.

Petitioners are reminded that before it can be alleged that an inventor has refused to execute an oath or declaration, it must be demonstrated that a *bona fide* effort has been made to present a copy of the complete application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. Petitioners have failed to establish that the non-signing inventors received a copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the oath or declaration. Any renewed petition should be accompanied by evidence to establish that the non-signing inventors were sent a complete copy of the application papers (specification, claims, drawings, and oath or declaration) and thereafter refused to execute the declaration. Petitioners may wish to provide the Office copies of letters sent to the inventors indicating the enclosure of the application papers (specification, claims, drawings, and oath or declaration). If after each inventor receives the application papers and requests to execute the oat or declaration are refused, these facts should be set forth in a statement of facts signed by the person to whom the refusals were made and detailing with specificity the exact manner of the refusals. If a written refusal has been made, a copy of the written refusal should be included on renewed petition.

As to item (2), an oath or declaration in compliance with 37 CFR 1.63 has not been presented. The declaration submitted with the instant petition is not acceptable as it contains alterations that have not been initialed or dated. *See*, 37 CFR 1.52(c) and MPEP 605.04(a). Any renewed petition must include a newly executed oath or declaration in full compliance with 37 CFR 1.63 and 37 CFR 1.64. *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

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

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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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 GRANTING STATUS
Application No. 10/996,819	: UNDER 37 CFR 1.47(a)
Filed: November 23, 2004	:
Dkt. No.: 9692-000032COA	:
For: LITERATURE PIPELINE	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 10, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventors Mark D. Yandell and William Majoros either cannot be reached or located for presentation of the application papers and/or have 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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MARK D. YANDELL
804 VISTA HEIGHTS ROAD
EL CERRITO, CA 94530

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MAR 06 2006

OFFICE OF PETITIONS

In re Application of :
Li, et al. :
Application No. 10/996,819 : LETTER
Filed: November 23, 2004 :
Dkt. No.: 9692-000032COA :
For: LITERATURE PIPELINE :

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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WILLIAM MAJOROS
20418 ALDERLEAF TERRACE
GERMANTOWN, MD 20874

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MAR 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Li, et al.	:	
Application No. 10/996,819	:	LETTER
Filed: November 23, 2004	:	
Dkt. No.: 9692-000032COA	:	
For: LITERATURE PIPELINE	:	

Dear Sir:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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JENNINGS, STROUSS & SALMON, P.L.C.
201 E. WASHINGTON ST., 11TH FLOOR
PHOENIX AZ 85004

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AUG 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
CARLSON, Bradley D. et al.	:	
Application No. 10/996,860	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. **53813-2 CIP**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 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. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Joseph W. Mott on behalf of all attorneys of record. All attorneys/agents associated withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the second named inventor Joan Parkinson at the address indicated below

There are no outstanding Office Actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JOAN PARKINSON**
c/o DIALTECH LLC
10022 N 36TH STREET
PHOENIX, AZ 85028

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PATENTS+TMS, P.C.
2849 W. ARMITAGE AVE.
CHICAGO IL 60647

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OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Dpuglas Elslager	:	
Application No. 10/996,862	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. ELS-P-04-001	:	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 September 3, 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 Brian M. Mattson on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed August 18, 2009 that requires a reply from the applicant.

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

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

cc: DOUGLAS ELSLAGER
1 TWIN HILLS RIDGE DR.
CINCINATI, OH 45228-1130

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
10/996,862	11/24/2004	Douglas Elslager	ELS-P-04-001

CONFIRMATION NO. 8417

POWER OF ATTORNEY NOTICE

29013
PATENTS+TMS, P.C.
2849 W. ARMITAGE AVE.
CHICAGO, IL 60647

OC000000038305285

Date Mailed: 10/15/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/03/2009.

- 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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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of :
Muhammad Sohail et al :
Application No. 10/996,865 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. 351044-0012 :
BWT-011US

This is a decision on the petition under 37 CFR 1.137(b), filed November 17, 2006,[1] 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 May 5, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on July 6, 2005. A Notice of Abandonment was mailed on January 9, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the Notice of May 5, 2005 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 $2,160 extension of time fee submitted with the petition on February 21, 2006 was subsequent to the maximum

[1] In view of the evidence submitted, the petition will be accepted as having been filed on February 21, 2006. Further, Office Finance records show that the $1,500 petition fee was charged to petitioner's deposit account on February 21, 2006.

extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to the Office of Initial Patent Examination for further processing in accordance with this decision on petition.

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

Frances Hicks
Petitions Examiner
Office of Petitions

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WINSTEAD PC
P.O. BOX 50784
DALLAS TX 75201

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OFFICE OF PETITIONS

In re Application of	:	
Khabashesku et al.	:	
Application No. 10/996,869	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 11321-P082US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the Notice of Non-Compliant Amendment mailed April 17, 2008, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 18, 2008. A Notice of Abandonment was mailed March 31, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $810.00 and (3) a proper statement of unintentional delay.

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

The application file is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 04/20/2010

Applicant	: Israel L'Heureux	: DECISION ON REQUEST FOR
Patent Number	: 7610400	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,871	: 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 **1257** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE , SUITE 300
WOODBURY, MN 55125

Mail Date: 05/17/2010

Applicant : Israel L'Heureux
Patent Number : 7610400
Issue Date : 10/27/2009
Application No : 10/996,871
Filed : 11/23/2004

: 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 **1300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

SEP 12 2007

OFFICE OF PETITIONS

In re Application of Papakipos, et al. Application No. 10/996,874 Filed: November 23, 2004 Attorney Docket No. MSFT-4641/191744.02	: : : : :	ON PETITION

This is a decision on the petition to revive under 37 CFR 1.137(b), filed August 14, 2007.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely file an Appeal Brief after a Notice of Appeal was filed on June 13, 2006. A Notice of Abandonment was mailed on June 15, 2007.

With the instant petition, petitioner submitted the required reply in the form of an RCE, paid the petition fee, and made a statement of unintentional delay.

The matter is being forwarded to Group Art Unit 2628 for consideration of the RCE, filed August 14, 2007.

Telephone inquiries regarding this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/06/09

TO SPE OF : ART UNIT 2111

SUBJECT : Request for Certificate of Correction for Appl. No.: 10996877 Patent No.: 7594053

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Formatted: Bullets and Numbering

Comments: Recommended amendment approved

/Mark Rinehart/
Supervisory Patent Examiner
Art Unit 2111

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

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

Mail Date: 04/21/2010

Applicant	: Mike Dvorkin	: DECISION ON REQUEST FOR
Patent Number	: 7594053	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/996,877	: 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 **228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

BAY AREA INTELLECTUAL PROPERTY GROUP, LLC
P.O. BOX 210459
SAN FRANCISCO, CA 94121-0459

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OCT 21 2008
OFFICE OF PETITIONS

In re Application of	:	
Brian Judd	:	
Application No. 10/996,884	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. JUDD01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on April 4, 2008, to revive the above-identified application.

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

The application became abandoned for failure to timely respond to the non-final Office action mailed January 22, 2007. A Notice of Abandonment was mailed on September 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

If Ms. Ruzich desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

This application file is being referred to Technology Center Art Unit 2837 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

cc: Elizabeth Ruzich
3475 Edison Way, Suite L
Menlo Park, CA 94025

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

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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JUN 2 3 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Foster	:	
Application No. 10/996,892	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. M-4540-3C US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 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 July 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.

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 $1,050 extension of time fee submitted with the petition on October 11, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

The application file is being referred to Technology Center AU 3694 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

PTO/SB/64 (10-07)
Approved for use through 10/31/2007. 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)
M-4540-3C US

First named inventor: Robert A Foster

Application No.: 10/996,89

Art Unit: 3694

Filed: November 23, 2004

Examiner: Trotter, Scott S.

Title: Data Processing System For Complex Pricing and Transactional Analysis

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 $ 1540.00 (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 Amendment (identify type of reply):

☐ has been filed previously on _____
☑ is enclosed herewith.

Adjustment date: 06/20/2008 CKHLOK
03/17/2008 RBALTIMO 00000002 502257 10996892
01 FC:1253 1050.00 CR

B. The issue fee and publication fee (if applicable) of $ _____.
☐ has been paid previously on _____.
☐ is enclosed herewith.

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

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

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	October 11, 2007 Date
Edward C. Kwok Typed or printed name	33,938 Registration Number, if applicable
MacPherson Kwok Chen & Heid LLP Address	(408) 392-9250 Telephone Number
2033 Gateway Place, Suite 400, San Jose, CA 95110 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.

October 11, 2007 Date	Signature
via EFS-Web on October 11, 2007	Edward C. Kwok 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: 06/16/08

2 Serial/Patent # 10/996,892

	3 Please refund the following fee(s):	4 PAPER NUMBER	5 DATE FILED	6 AMOUNT
	Filing			$
	Amendment			$
X	Extension of Time		10/11/07	$ 1,050.00
	Notice of Appeal/Appeal			$
	Petition			$
	Issue			$
	Cert of Correction/Terminal Disc.			$
	Maintenance			$
	Assignment			$
	Other			$

7 TOTAL AMOUNT OF REFUND $ 1,050.00

8 TO BE REFUNDED BY:

	Treasury Check
X	Credit Deposit A/C #:

9 5 0 -- 2 2 5 7

10 REASON:

	Overpayment
	Duplicate Payment
X	No Fee Due (Explanation):

Extension of time unnecessary.

11 REFUND REQUESTED BY:

TYPED/PRINTED NAME: Terri Williams TITLE: Paralegal Specialist

SIGNATURE: Chris Butler for Terri Williams PHONE: (571) 272-2991

OFFICE: Office of Petitions

****

THIS SPACE RESERVED FOR FINANCE USE ONLY:

APPROVED: CKhok DATE: 6/20/08

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:

Office of Finance
Refund Branch
Crystal Park One, Room 802B

FORM PTO 1577
(01/90)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/22/10

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction for Appl. No.: 10996903 Patent No.: 7419873

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: I approved the changes. I don't see a change in the drawings but new drawing is OK

Mark S. Sm[illegible] SPE 2823

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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HENRICKS SLAVIN AND HOLMES LLP
SUITE 200
840 APOLLO STREET
EL SEGUNDO CA 90245

3/7/08

In re Application of:
Cheng, Michael H. L. et al :
Appl. No.: 10/996,912 : DECISION ON PETITION
Filed: Nov. 24, 2004 :
Attorney's Docket # 380112-145 (53634/TJD/H62 :
For: INSERT FOR ALTERING THE STIFFNESS :
OF A GOLF CLUB SHAFT :

This is a decision on the petition filed Feb. 10, 2008 under 37 CFR 1.181 requesting supervisory review of the final office action mailed Dec. 13, 2007. Petitioner requested reconsideration and withdrawal of the finality of the Office action.

The petition is **Granted**.

Petitioner requests that the finality of the Office action mailed Dec. 13, 2007 be withdrawn because the new ground of rejection to the un-amended claims 72-80 were not necessitated by the amendment filed on Sep. 14, 2007.

It is noted in the amendment of Sep. 14, 2007, the applicant did not amend claims 72-80. The examiner introduced new art, U.S. Pat. 6,308,590 to Berto to reject the un-amended claims 72-80. Therefore, the rejection of at least claims 72-80 under 35 U.S.C. 103(a) as unpatentable over Shulkin (U.S. Pat. 3,833,223) in view of Hall (U.S. Pat. 2,133,696 and Berto (U.S. Pat. 6,308,590) was not necessitated by amendment of Sep. 14, 2007. As such, the Dec. 13, 2007 final Office action is premature and thus the finality of the action is hereby withdrawn. Since the finality is being withdrawn, the amendment responding to the Office action dated Dec. 28, 2007 will be entered and treated as a 37 CFR § 1.111 amendment.

The application is being forwarded to the Primary Examiner William Pierce of Art Unit 3711 for consideration of the amendment filed Dec 28, 2007. Any questions regarding this decision should be directed to Special Programs Examiner, Henry Yuen, at 571-272-4856.

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PERKINS COIE LLP (BOEING)
P.O. BOX 1247
PATENT - SEA
SEATTLE WA 98111-1247

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JUL 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,503,368
Issued: March 17, 2009
Application No. 10,996,922
Filed: November 24, 2004
Attorney Docket No. 030048157US

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R § 1.705(D)" filed May 15, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred sixty-two (462) days to seven hundred fifty-nine (759) days.

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

On March 17, 2009, the above-identified application matured into US Patent No. 7,503,368 with a patent term adjustment of 462 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 759 days, which includes 297 days of patent term adjustment due to exceeding three year pendency and 493 days due to USPTO delay in prosecution."

The 297-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 24, 2004, and the RCE being filed on September 16, 2008, three years and 297 days later. Patentees assert that in addition to this 297-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 493 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 31 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 (297 days) and the period of Examination Delay (493 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 790 days, which is the sum of the period of Three Year Delay (297 days) and the period of Examination Delay (493 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 759 days (297 + 493 reduced by 0 overlap – 31(applicant delay)).

The Office agrees that as of the filing of the RCE on September 16, 2008, the application was pending three years and 297 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 493 days is correct. At issue is whether patentees should accrue 297 days of patent term adjustment for the Office under 37 CFR 1.702(b), as well as 493 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 297 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 24, 2004 to September 16, 2008. During that time, the issuance of the patent was delayed by 493 days, not 493 + 297 days. The Office took 14 months and 493 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 493 days of Office delay and the 31 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 297 days until the filing of the RCE. The Office did not delay 493 days and then an additional 297 days. Accordingly, 493 days of patent term adjustment (not 493 and 297 days) was properly entered since the period of delay of 297 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 493 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 493 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 297 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

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

Docket No.: 030048157US
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Chapman et al.

Application No.: 10/996,922

Confirmation No.: 8626

Filed: November 24, 2004

Art Unit: 1791

For: COMPOSITE SECTIONS FOR AIRCRAFT FUSELAGES AND OTHER STRUCTURES, AND METHODS AND SYSTEMS FOR MANUFACTURING SUCH SECTIONS

Examiner: M. A. Tolin

APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R § 1.705(D)

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

Madam:

Applicant requests reconsideration of the patent term adjustment indicated in the Issue Notification of February 25, 2009.

(1) Applicant is including the fee set forth in 37 C.F.R. § 1.18(e). Please charge any deficiencies or credit any overpayment to our Deposit Account No. 50-0665, under Order No. 030048157US from which the undersigned is authorized to draw.

(2) Statement of Facts

(i) Correct Patent Term Adjustment and Bases for Adjustment

The correct patent term adjustment is 759 days. The PTO's calculated patent term adjustment is 462 days. Applicant is entitled to an additional 297 days of patent term adjustment.

The PTO properly accounted for the delay under 35 U.S.C. § 154(b)(1)(A), referred to as the "A delay." The A delay is 493 days.

The PTO failed to properly account for the delay under 35 U.S.C. § 154(b)(1)(B), referred to as the "B delay." The B delay is 297 days.

The PTO properly accounted for the overlap under 35 U.S.C. § 154(b)(2)(A) in the A delay and the B delay. The overlap is 0 days.

The PTO properly accounted for the reduction in patent term adjustment under 35 U.S.C. § 154(b)(2)(C). The reduction is 31 days.

The correct patent term adjustment is the sum of the A delay and the B delay minus the overlap and minus the reduction. Thus, the correct patent term adjustment is 493+297-0-31, which is 759 days.

(ii) Relevant Dates

A Delay		
Filing Date + 14 Months	01/24/2006	↓
First Office Action	06/01/2007	493
Total		493

B Delay		
Filing Date + 3 years	11/24/2007	↓
Request for Continued Examination	09/16/2008	297
Total		297

Overlap	
Total	0

Reduction		
Office Action	05/16/2008	↓
Amendment After Office Action	09/16/2008	31
Total		31

(iii) Terminal Disclaimer

The patent is not subject to a terminal disclaimer.

(iv) Failure to Engage in Reasonable Efforts

Applicant is not contesting the reduction in patent term adjustment of 31 days as accounted for by the PTO that are "deemed" to be a failure to engage in reasonable efforts under 37 C.F.R. § 1.704.

Dated: May 15, 2009

Respectfully submitted,

By_____

Stephen E. Arnett
Registration No.: 47,392
PERKINS COIE LLP
P.O. Box 1247
Seattle, Washington 98111-1247
(206) 359-8000
(206) 359-7198 (Fax)
Attorney for Applicant

UNITED STATES PATENT AND TRADEMARK OFFICE

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BOND, SCHOENECK & KING, PLLC
ONE LINCOLN CENTER
SYRACUSE, NY 13202-1355

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APR 30 2009

OFFICE OF PETITIONS

In re Application of :
Walter V. Werner, et al. :
Application No. 10/996,930 : ON PETITION
Filed: November 23, 2004 :
Attorney Docket No. 508P018 :

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

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 14, 2007. A Notice of Abandonment was mailed on January 14, 2008. On February 25, 2009, the present petition was filed.

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

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center AU 2877 for appropriate action by the Examiner in the normal course of business on the reply received February 25, 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: WILLIAM GREENER
BOND, SCHOENECK & KING, PLLC
10 BROWN ROAD, SUITE 201
ITHACA, NY 14850-1248

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Commissioner for Patents
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BERKELEY LAW & TECHNOLOGY GROUP
1700NW 167TH PLACE
SUITE 240
BEAVERTON OR 97006

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OFFICE OF PETITIONS

In re Application of	:	
Avinash et al.	:	
Application No. 10/996,937	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. 006.P013	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 19, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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COHEN & POKOTILOW, LTD.
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1635 MARKET STREET
PHILADELPHIA PA 19103-2212

MAIL

SEP 2 0 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of :
CLARE, THOMAS J., et al. :
Application No. 10/996,939 :
Filed: November 24, 2004 :
For: **IDENTIFICATION MARKING AND METHOD FOR APPLYING THE IDENTIFICATION MARKING TO AN ITEM** :

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed July 28, 2006 under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

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

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

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

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICE OF L. JACK GIBNEY
8777 SAN JOSE BLVD.
SUITE 502
JACKSONVILLE, FL 32217

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In re Application of	:	
Robert Taylor	:	
Application No.10/996,943	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 04-186-PT-YP	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 26, 2007. Accordingly, the date of abandonment of this application is March 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00, and (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/996,948	11/24/2004	George R. Kaplan	LKI 205.6	9640

10037 7590 03/07/2008
MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
WHITE PLAINS, NY 10606

EXAMINER
EVANS, GEOFFREY S

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
03/07/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

wk

Mailed: 3-7-08

In re application of	:	
George Kaplan et al.	:	DECISION ON
Serial No. 10/996,948	:	PETITION
Filed: 11/24/2004	:	
For: Microinscribed Gemstone	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed January 11, 2008, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that the documents submitted on EFS ID 2700011 be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase ''and returned '' from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase ''and return '' from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

10/996,948

The images will be removed from the Official file.

Jacqueline M. Stone

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

Steven M. Hoffberg
MILDE & HOFFBERG, LLP
10 BANK STREET
SUITE 460
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Dority & Manning, P.A.
P.O. Box 1449
Greenville, SC 29601

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OFFICE OF PETITIONS

In re Application of :
K. Johnsgard, Sallows, Messineo, Mailho, and M. Johnsgard :
Application No. 10/996,955 : DECISION REFUSING STATUS
Filed: November 24, 2004 : UNDER 37 CFR 1.47(a)
Attorney Docket No. AGX-67-DIV :
For: SYSTEMS AND METHODS FOR EXPITAXIALLY DEPOSITING FILMS ON A SEMICONDUCTOR SUBSTRATE

This is a decision on the petition under 37 CFR 1.47(a) November 24, 2004.

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

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on November 24, 2004, and was accompanied by the instant petition under 37 CFR 1.47(a). It is noted that the petition was a copy of a petition under 37 CFR 1.47(a) filed in related application 10/120,186 on April 10, 2002.

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

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

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

(3) the petition fee,

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

The instant petition lacks items (1)and (4) as set forth above.

As to item (1), it is noted that the petition and evidentiary statements and documents are over two-years old. It is, therefore, questionable whether the allegations made in the petition as to the refusal of the non-signing inventors to execute the declaration should be given any consideration as they are not contemporaneous with the application. The undersigned is reluctant to allow the prosecution of the application to proceed without more current evidence that the previously non-signing inventor remain unwilling to join the prosecution of the application. Accordingly, with any renewed petition filed, petitioner must establish that recent efforts to contact the non-signing inventors were made and the results of those efforts and that a complete copy of the application papers were sent to the last known address of the non-signing inventors.

As to item (4), the last known addresses provided for the non-signing inventors are more than two years old. As previously stated, it is questionable whether this information is correct given the apparent lack of effort to contact the non-signing inventors within the past two years. With any renewed petition filed, petitioner must establish that the last known addresses for the non-signing inventors are the most current available to petitioner.

Deposit account 04-1403 will be charged $130.00 for the instant petition fee.

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

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Dority & Manning, P.A.
P.O.Box 1449
Greenville, SC 29601

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OFFICE OF PETITIONS

In re Application of
K. Johnsgard, Sallows, Messineo, Mailho, and M. Johnsgard
Application No.: 10/996,955
Filed: November 24, 2004
Attorney Docket No: AGX-67-DIV
For: SYSTEMS AND METHODS FOR EXPITAXIALLY DEPOSITING FILME ON A SEMICONDUCTOR SUBSTRATE

: DECISION ACCORDING RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 28, 2005.

The renewed petition is **GRANTED**.

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

The above-identified application was filed on November 24, 2004, and was accompanied by a petition under 37 CFR 1.47(a). The petition under 37 CFR 1.47(a) was dismissed by a decision mailed February 11, 2005. The decision allowed an extendable period for reply of two months from its mailing date. The instant renewed petition was filed on March 28, 2005.

Petitioner has shown that inventors K. Johnsgard, Sallows, Messineo, and M. Johnsgard have constructively refused to join the prosecution of 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.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MARK FARBER, ESQ.
UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
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NORWALK CT 06856

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APR 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Nguyen et al.	:	
Application No. 10/996,971	:	LETTER DISMISSING PETITION
Filed: 26 November, 2004	:	
Atty Docket No. 2175CIP4Con	:	
(203-2931CIPC	:	

This is a communication in reference to the paper styled as a petition under 37 CFR 1.47(a),[1] filed on 1 March, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on 26 November, 2004, without an executed oath or declaration. Accordingly, on 30 December, 2004, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application,

[1] A petition under 37 CFR 1.47(b) is inappropriate in this instance since all but one of the inventors has signed the declaration. A petition under 37 CFR 1.47(b) is only appropriate where none of the inventors will sign, accordingly the petition will be treated as a petition under 37 CFR 1.47(a).

stating that the oath or declaration was missing and that an executed oath or declaration along with a late-filing surcharge were required.

In response, on 1 March, 2005 (certificate of mailing 25 February, 2005), petitioners filed a copy of a declaration from Application No. 10/116,824, of which the present application is a continuation, along with a copy of a petition under 37 CFR 1.47 filed in the prior application. On 4 April, 2005, petitioners filed a copy of a decision granting the petition under 37 CFR 1.47(a) filed in the prior application.

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

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee;
(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and
(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (3). Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[2] As such, the petition fee is a prerequisite to the filing of the present petition, and the Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

REQUIREMENT FOR OATH OR DECLARATION SIGNED BY ALL INVENTORS

Although petitioners have filed a copy of the decision granting the petition in the prior-filed application, it is noted that the decision granting the petition states that only joint inventor Mitchell cannot be located. The declaration filed in the present application, however, is missing the signatures of joint

[2] 37 CFR 1.22(a).

inventors Mitchell and Trimberger. As joint inventor Trimberger signed the declaration in the prior application before Rule 47 status was granted, a copy of the declaration from the prior application with joint inventor Trimberger's signature must be filed in the present application as a prerequisite to granting Rule 47 status herein.

Petitioners should consider filing a copy of the declaration from the prior application containing the signature of all the signing inventors, including joint inventor Trimberger. If a copy of the declaration from the prior application signed by all the signing inventors is received, the Office may consider a request to grant Rule 47 status in the present application based upon the grant of Rule 47 status on 19 May, 2003, in Application No. 10/116,824, of which the present application is a continuation.

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

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

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

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-05

MARK FARBER, ESQ.
UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK CT 06856

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JUN 22 2005

OFFICE OF PETITIONS

In re Application of	:	
Tetzlaff et al.	:	
Application No. 10/996,971	:	DECISION ON PETITION
Filed: 24 November, 2004	:	
Atty Docket 2175CIP4Con (203-2931CIPC	:	

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 2 June, 2005.

The petition is **DISMISSED AS MOOT**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 10/116,824, filed on 5 April, 2002, of which the instant filing is a continuation application. Furthermore, a copy of the decision, mailed on 19 May, 2003, granting a petition to accord § 1.47(a) status to prior application No. 10/116,824, has been placed in the file of the present application.

As Rule 1.47(a) status was granted in the prior application, this application is hereby accorded Rule 1.47(a) status.

As no petition is necessary to accord Rule 1.47(a) status in this application, the petition is dismissed as moot. The petition fee is unnecessary and will be credited to counsel's deposit account, No. 21-0550.

As provided in Rule 1.47(c), since notice was provided after the grant of Rule 1.47(a) status in the prior application, the Office is dispensing with the notice provision in this divisional application.

There is no indication that petition herein was ever empowered to prosecute the instant application. If petitioners desire to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. 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.

After this decision is mailed, the application will be referred to Technology Center 3739 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road Suite 225
Melville NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

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DERGOSITS & NOAH LLP
THREE EMBARCADERO CENTER
SUITE 410
SAN FRANCISCO CA 94111

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DEC 03 2009

OFFICE OF PETITIONS

In re Application of	:	
Wu et al.	:	
Application No. 10/996,975	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. 676.07	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 8, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 23, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 24, 2009. A Notice of Abandonment was mailed July 10, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1,620.00, and (3) an adequate statement of unintentional delay.

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

This matter is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski

Joan Olszewski
Petitions Examiner
Office of Petitions

DATE: 9/15/07 APPLICATION NUMBER: 10/996,990

DOC CODE: Pet-dec-TC DOC DATE: _____

DELIVER THE ATTACHED FILE/DOCUMENT TO THE TC SCANNIG CENETER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN 8 WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN 16 WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of
Ihab Shraim, et. al.
Application No. 10/996,990
Filed: November 23, 2004
Attorney Docket No. 040246-000610US

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed September 15, 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 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 and/or Notice of Foreign Filing which sets forth the projected publication date of December 27, 2007 accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 2142 for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/996,990	11/23/2004	Ihab Shraim	040246-000610US

CONFIRMATION NO. 9939

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

Date Mailed: 09/17/2007

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

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

The projected publication date is 12/27/2007.

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

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

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

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

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

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/996,990	11/23/2004	Ihab Shraim	040246-000610US

CONFIRMATION NO. 9939

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

Date Mailed: 09/17/2007

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

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

The projected publication date is 12/27/2007.

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

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

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

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

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

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SEP 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Ihab Shraim, et. al.	:	
Application No. 10/996,991	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040246-000120US	:	

This is a decision on the petition, filed September 15, 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 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 and/or Notice of Foreign Filing which sets forth the projected publication date of December 27, 2007 accompanies this decision on petition.

This application is being referred to Technology Center Art Unit 3694for examination in due course.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/996,991	11/23/2004	Ihab Shraim	040246-000120US

CONFIRMATION NO. 9943

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

Date Mailed: 09/17/2007

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

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

The projected publication date is 12/27/2007.

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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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/996,991	11/23/2004	Ihab Shraim	040246-000120US

CONFIRMATION NO. 9943

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

Date Mailed: 09/17/2007

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

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

The projected publication date is 12/27/2007.

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

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

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

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

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

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MAY 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Shraim, et al.	:	
Application No. 10/996,993	:	DECISION ON PETITION
Filed: November 23, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 040246-001300US	:	

This is a decision on the petition, filed September 15, 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 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 and/or Notice of Foreign Filing which sets forth the projected publication date of August 16, 2007 accompanies this decision on petition.

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

This application is being returned to Technology Center Art Unit 2137 for examination in due course.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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.
10/996,993	11/23/2004	Ihab Shraim	040246-001300US

CONFIRMATION NO. 9961

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

Date Mailed: 05/10/2007

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

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

The projected publication date is 08/16/2007.

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

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

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

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

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

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FEB 11 2008

OFFICE OF PETITIONS

In re Application of :
ZUCHERMAN, James F. et al. :
Application No. 10/996,996 :
Filed: November 23, 2004 :
Attorney Docket No. **5910-202** :

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 14, 2007.

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

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on December 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 Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **COATS & BENNETT/MEDTRONICS**
1400 CRESCENT GREEN
SUITE 300
CARY NC 27518

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN W. HOLLEY
20 KOLB DRIVE
MOREHEAD, KY 40351

COPY MAILED
MAR 30 2006
OFFICE OF PETITIONS

In re Application of
John Holley
Application No. 10/997,001
Deposited: November 23, 2004
Title of Invention: STEEL PIPE DEMAGNETIZING TOOL

ON PETITION

This is a decision on the petition filed March 7, 2006, to revive the above identified application under 37 CFR 1.137(a)[1].

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

A Notice to File Missing Parts was mailed January 26, 2005 and set a two (2) month shortened statutory period for reply. Since the maximum period of time obtainable for an extension of time had elapsed and since no proper reply had been received, the proceedings were terminated and a notice to that affect was mailed August 24, 2005.

PETITION UNDER 37 CFR 1.137(a)

The Commissioner 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 be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

[2]35 U.S.C. § 133.

"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.[3]

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).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

Petitioner asserts that he was unavoidably delayed from filing a timely response to the Office communication mailed January 26, 2005 because he was not aware that communications had been mailed. Petitioner further argues that the company that filed his application and with whom he entrusted with a power of attorney is no longer in business, that he has been unable to reach any of their representatives and thus that the office communication was mailed to their address.

In order to establish unavoidable delay, petitioner must demonstrate diligence on the part of parties with whom he entrusted with a power of attorney in prosecution of the matter.[6] Since petitioners can't say for certain whether "US CORPORATIONS, INC." exercised any

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[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

[4] See MPEP 711(c)(III)(C)(2) for a discussion of the requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] See Douglas v. Manbeck, 21 USPQ2d 1697, 1700 (E.D. Pa. 1991), aff'd 975 F.2d 869, 24 USPQ2d 1318 (Fed. Cir. 1992).

diligence with respect to the prosecution of this application, rather than unavoidable delay and a lack of diligence on the part of petitioner's chosen representative, the facts point more towards negligence on the part of petitioner's chosen representatives. The office communication as well as a Notice Of Termination of Proceedings (mailed August 24, 2005) were both mailed to the address of record and neither have been returned as undeliverable which leads this office to believe that they have been received. Furthermore, petitioner has not established that "US CORPORATIONS, INC." is in fact out of business. In fact, an internet search reveals that the company may be operating under another name but it does not appear on its face that petitioner's chosen representative are no longer in business.

Unfortunately, however, the U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inaction.[7] Specifically, petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative however does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133 or 37 CFR 1.137(a).[8]

As petitioner has not provided a showing of evidence to satisfy the requirements of a grantable petition under 37 CFR 1.137(a), the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b)[9], which

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[7] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[8] Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (N.D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

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

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

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

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

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

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).

It should be noted that if petitioner chooses to file a petition under 37 CFR 1.137(b), the fee for a small entity is set at $750.00 and the $250.00 paid for the unavoidable petition under 37 CFR 1.137(a) will not be credited towards that payment. Petitioner has already received consideration under that standard and the fees are not transferable.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JOHN W. HOLLEY
20 KOLB DRIVE
MOREHEAD KY 40351

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MAY 12 2006
OFFICE OF PETITIONS

In re Application of
John W. Holley
Application No. 10/997,001
Deposited: November 23, 2004
Title of Invention: **STEEL PIPE DEMAGNETIZING TOOL**

ON PETITION

This is a decision on the petition, filed April 25, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely reply to the Notice of Incomplete Application mailed January 26, 2005. No response having been filed, the application became abandoned March 28, 2005. Accordingly, a Notice of Abandonment was mailed August 24, 2005. A petition filed March 7, 2006 under 37 CFR 1.137(a) argued that the Notice mailed January 26, 2005. The petition was dismissed in a decision mailed March 30, 2005 because petitioner had not established unavoidable delay.

Comes now petitioner with the instant petition under the unintentional standard.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

The petition does not satisfy requirement (1) above.

The Notice mailed January 26, 2005 noted that the application had been deposited without drawings and that the filing fee was insufficient. The normal course is for the petitioner to request a copy of the office communication, in this case from the Office of Initial Patent Examination. Under the circumstances however, a copy of the Notice mailed January 26, 2005 and the Notice of Abandonment mailed August 24, 2005 are included with this decision, as a courtesy.

Petitioner must submit a proper reply to the Notice of Incomplete Application mailed on January 26, 2005, with any renewed petition. It will also be incumbent upon petitioner to ascertain what the proper fees due are, and any other filing requirements, at the time the renewed petition is filed. There are no additional petition fees though since the petition fee was paid with the instant petition. **Petitioner should note that submission of any renewed petition without the required reply will be construed as intentional delay.**

Petitioner might want to contact the Office of Initial Patent Examination at 571-272-4000.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Attachments: 1) Notice of Incomplete Application
2) Notice of Abandonment

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
10/997,001	11/23/2004	John Holley	

CONFIRMATION NO. 8904

32133
US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

FORMALITIES LETTER

OC000000015032829

Date Mailed: 01/26/2005

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below **and a newly executed oath or declaration covering the items must** be submitted within **TWO MONTHS** of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated *(37 CFR 1.53(e))*. Replies should be mailed to: Mail Stop Missing Parts, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the $130.00 petition fee *(37 CFR 1.17(h))*. If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." *Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).*

- The statutory basic filing fee is insufficient.
  Applicant must submit $ **10** *to complete the basic filing fee for a small entity.*

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$10** for a Small Entity

- **$10** Statutory basic filing fee.

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Roberta Lucas

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/997,001		John Holley	

CONFIRMATION NO. 8904
ABANDONMENT/TERMINATION LETTER

32133
US CORPORATIONS, INC.
630 NEPTUNE AVE.
ENCINITAS, CA 92024

Date Mailed: 08/24/2005

NOTICE OF TERMINATION OF PROCEEDINGS UNDER 37 CFR 1.53(e)

Proceedings on the above-identified application number are **TERMINATED**.

The application did not meet the requirements of 37 CFR 1.53(b), (c), or (d) to be entitled to a filing date, and the filing error(s) specified in the Notice mailed on 01/26/2005 were not timely corrected *(37 CFR 1.53(e))*.

The $ 385 fee submitted with the application, less a $130.00 handling fee, will be refunded or credited to your deposit account.

If a complete reply to the notice was previously filed by applicant within the time period set forth in the notice, applicant may request for reconsideration of the termination within 2 months from the mailing of this notice of termination by filing a petition accompanied by a true copy of the originally filed reply and the item(s) identified in one of the following:

1. A properly itemized date-stamped postcard receipt (see MPEP § 503); or

2. If the reply was filed via Express Mail, a submission satisfying the requirements of 37 CFR 1.10(e) including, for example, a copy of the Express Mail mailing label showing the "date-in" (see MPEP § 513).

Any request for reconsideration should be directed to OIPE.

A copy of this notice MUST be returned with the reply.

Teguest Woldeyes
Office of Initial Patent Examination (703) 308-1202

PART 3 - OFFICE COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JOHN W. HOLLEY
20 KOLB DRIVE
MOREHEAD KY 40351

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JUN 0 5 2006

OFFICE OF PETITIONS

In re Application of :
John W. Holley :
Application No. 10/997,001 :
Deposited: November 23, 2004 :
Title of Invention: **STEEL PIPE DEMAGNETIZING TOOL** :

ON PETITION

This is a decision on the renewed petition, filed May 18, 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 Notice of Incomplete Application mailed January 26, 2005. No response having been filed, the application became abandoned March 28, 2005. Accordingly, a Notice of Abandonment was mailed August 24, 2005. A petition filed March 7, 2006 under 37 CFR 1.137(a) argued that the Notice mailed January 26, 2005 was not received. The petition was dismissed in a decision mailed March 30, 2005 because petitioner had not established unavoidable delay. A petition filed April 25, 2006 under the unintentional standard was dismissed in a decision mailed May 12, 2006 because petitioner had not submitted a proper reply with the petition.

Comes now petitioner with the instant renewed petition, drawings and additional fees as required by the Notice of Incomplete Application mailed January 26, 2005.

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[1]A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

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

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No. 062105

Lee Van Pelt
VAN PELT, YI & JAMES LLP
10050 N. Foot Hill Blvd, Suite 200
Cupertino, CA 95014

JUL 07 2005

In re Application of:	:	
SANDER *et al.*	:	DECISION ON PETITION
Serial No.: 10/997,058	:	TO MAKE SPECIAL
Filed: November 23, 2004	:	
Attorney Docket No.: **AMALP001**	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed March 17, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicants are sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from the applicant, Wendell Sanded, stating that the he is sixty-five (65) years of age or more, and a copy of the applicant's Birth Certificate and U. S. Passport.

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURR & BROWN
PO BOX 7068
SYRACUSE, NY 13261-7068

Mail Date: 05/14/2010

Applicant	: Koji Ishizaki	: DECISION ON REQUEST FOR
Patent Number	: 7622166	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/997,064	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **656** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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Alexandria, VA 22313-1450
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SCHWEGMAN LUNDBERG & WOESSNER, PA
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of	
WAGNER, et al.	
Application No. 10/997,065	DECISION ON PETITION
Filed: November 24, 2004	TO WITHDRAW
Attorney Docket No. **50821/47.11 US**	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2007.

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

A review of the file record indicates that the power of attorney to **SCHWEGMAN LUNDBERG & WOESSNER, PA** has been revoked by the assignee of the patent application on February 8, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **STOEL RIVES LLP – SLC**
201 SOUTH MAIN STREET
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : December 7, 2009

TO SPE OF : ART UNIT 1792 - SPE Timothy H. Meeks.

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/997,068 Patent No.: 7,569,253 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Antonio Johnson

Certificates of Correction Branch
(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

AU 1792

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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Tie-Yan Liu	: DECISION ON REQUEST FOR
Patent Number	: 7650031	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,071	: 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 **1297** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Tie-Yan Liu
Patent Number : 7650031
Issue Date : 01/19/2010
Application No : 10/997,071
Filed : 11/23/2004

: 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 **1332** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

COPY MAILED

JUL 19 2006

OFFICE OF PETITIONS

In re Application of :
Lauritzen et al. :
Application No. 10/997,092 :
Filed: November 23, 2004 :
Attorney Docket No. 95,987 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed March 27, 2006, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed June 2, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 3, 2005. A Notice of Abandonment was mailed on March 3, 2006.

Petitioner has filed an Amendment with the petition in response to the Office action. Accordingly, the petition is granted.

This application is being referred to Technology Center Art Unit 2819 for processing of the Amendment in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/5/09 **Paper No.:** ____

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/997100 Patent No.: 7260122 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: _____

MINSUN OH HARVEY
PRIMARY EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAY 25 2005

Michael Cassoto
520 North Milwaukee Avenue
Suite 1
Libertyville, IL 60048

In re application of
Michael Cassata
Application No. 10/997,107 : DECISION ON REQUEST
Filed: November 24, 2004 : FOR WITHDRAWAL OF
For: PORTABLE DESKTOP FOR : ATTORNEY
SUPPORTING ITEMS

This is a decision on the renewed request filed on March 30, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application. The delay in treating this request is sincerely regretted.

The request is **NOT APPROVED**

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. Besides giving due notice to his or her client and delivering to the client all papers and property to which the client is entitled as specified under 37 CFR 10.40, approval of such a request requires that the following conditions be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;

B) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided; and

C) If withdrawal is requested in accordance with 37 CFR 10.40(c) above, there must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a).

The request to withdraw as attorney in the above-identified application is not approved because the power of attorney has already been changed as per the Notice regarding Change of Power of Attorney mailed April 13, 2005.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 04/13/05

cc: Timothy J. Fullin J.D., LL.M.
Fullin Legal Services
711 North Milwaukee Avenue
Libertyville, IL 60048

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

OCT 11 2005

MITCHELL P. BROOK
C/O LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL
SUITE 200
SAN DIEGO, CA 92130

In re application of Jared Morgenstern et al. Application No. 10/997,121 Filed: November 24, 2004 For: METHOD AND SYSTEM FOR WORD OF MOUTH ADVERTISING VIA A COMMUNICATIONS NETWORK	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (INFRINGEMENT)**

This is a decision on the petition under 37 C.F.R § 1.102(d) filed July 18, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed July 18, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

With regards to element 2(C) above, an Information Disclosure Statement was filed on July 18, 2005.

The examiner is directed (1) to make an interference search for possible interfering applications; (2) to promptly examine this application out of turn; and (3) if any interfering application is discovered, to examine such application

simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 10/03/2005

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HOVEY WILLIAMS LLP
2405 GRAND BLVD., SUITE 400
KANSAS CITY MO 64108

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JUN 2 6 2007

OFFICE OF PETITIONS

In re Application of	:	
JORDAN, Bradley	:	
Application No. 10/997,135	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. **32674-CIP**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 23, 2007 and re-submitted May 10, 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 Thomas B. Luebbering on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Bradley Jordan at the address indicated below.

There is an outstanding Office action mailed June 22, 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: **BRADLEY JORDAN**
32 BLACKSTOCK LANE
GOODMAN, MO 64843

cc: **BRADLEY JORDAN**
C/O QUICK IMPRINT SYSTEMS, INC.
P.O. BOX 7
GOODMAN, MO 64843

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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OFFICE OF PETITIONS

In re Application of	:	
Walker, Robert Michael	:	
Application No. 10/997,138	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 040384	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 25, 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 Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to Technology Center 2100 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

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LAW OFFICES OF STUART J. FRIEDMAN
28930 RIDGE ROAD
MT. AIRY, MD 21771

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Laszio K. Csatary et al	:	
Application No. 10/997,154	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 740481-46	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 20, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed January 3, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 4, 2005.

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

This matter is being referred to the Initial Patent Examination Unit.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: Stephen D. Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7599431	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,159	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1351** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

10/997160

Express Mail Mailing Label No. EV524717219US

PATENT
Attorney Docket No. EVG-015C1

APPLICANT(S): Cretella et al.

SERIAL NO.: Not yet assigned 10/997160 GROUP NO.: Not yet assigned 1722

FILING DATE: Herewith 11-24-04 EXAMINER: Not yet assigned Hiteshew

TITLE: Method and Apparatus For Doping Semiconductors

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

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c)

Sir:

Pursuant to 37 C.F.R. § 1.102(c) and MPEP § 708.02 VI, Applicant hereby petitions the Commissioner to accord the subject application "special" status, so that it may be advanced out of turn for immediate action. Applicant submits that the subject application should be made "special" because the invention will materially enhance the quality of the environment and/or materially contribute to the development and conservation of energy resources. In particular, one or more claims of the application relate to the development, improvement, and/or applications of crystalline ribbon that can be used in the formation of solar cells, which convert light, a free and virtually inexhaustible energy resource, into electricity.

Applicant believes that no fee is due with this Petition and respectfully requests that this Petition be granted.

Respectfully submitted,

Deborah M. Vernon

Date: November 24, 2004
Reg. No.: 55,699

Deborah M. Vernon
Agent for the Applicant
Proskauer Rose LLP
One International Place
14th Floor
Boston, MA 02110-2600

Tel. No.: (617) 526-9836
Fax No.: (617) 526-9899

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
AUG 3 0 2005

6864/26032-030 BNLIB1/8151v1

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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DEC 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
Tae-Ahn Jahng	:	
Application No. 10/997165	:	DECISION ON PETITION
Filed: 11/24/2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 559552000101	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on September 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Korean Application No.2003-0066108, filed on September 24, 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 24, 2004, which is after November 29, 2000, and is a continuation of prior-filed Application No. 10/798,014, filed on March 10, 2004, which is a continuation-in-part of prior-filed Application No. 10/728,566, filed on December, 5, 2003, which is within 12 months of September 24, 2003 (the filing date of the foreign application to which benefit is now being claimed). On October 27, 2007, a signed supplemental Application Data Sheet (ADS) was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

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

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

The address in the ADS and supplement to the petition filed on October 27, 2007, is different than the correspondence address. A 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.

This application is being referred to Technology Center AU 3733 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

Cc:

MERLE W. RICHMAN III
P.O. BOX 3333
LA JOLLA CA 92038-3333

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
10/997,165	11/24/2004	3733	851	559552000101	29	3

CONFIRMATION NO. 8651

CORRECTED FILING RECEIPT

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

OC000000027056322

Date Mailed: 12/06/2007

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)

Tae-Ahn Jahng, Iksan, KOREA, REPUBLIC OF;

Power of Attorney: The patent practitioners associated with Customer Number 25225

Domestic Priority data as claimed by applicant

This application is a CIP of 10/798,014 03/10/2004
which is a CIP of 10/728,566 12/05/2003

Foreign Applications

REPUBLIC OF KOREA 2003-0066108 09/24/2003

If Required, Foreign Filing License Granted: 01/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/997,165**

Projected Publication Date: Not Applicable

Non-Publication Request: No

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

Title

Method and apparatus for flexible fixation of a spine

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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

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

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

NOT GRANTED

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Morrison & Foerster, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

COPY MAILED

APR 0 3 2008

OFFICE OF PETITIONS

In re Application of
Tae-Ahn Jahng
Application No. 10/997,165
Filed: November 24, 2004
Attorney Docket No. 559552000101

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 **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the firm of Morrison & Foerster, LLP, has been revoked by the assignee, N Spine Inc., of the patent application on January 31, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

A non-final rejection was mailed on January 8, 2008. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, NY 10038

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Alexandria, VA 22313-1450
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Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

COPY MAILED

FEB 29 2008

In re Application of	:	
Mingdong Zhou	:	
Application No. 10/997,167	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. 58981.00007.CON1	:	FROM RECORD
	:	

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 4, 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 Joshua G. Gigger is not listed as an attorney with customer number 36183, which is requested for withdrawal in this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. A courtesy copy will be mailed to the address noted on the request to withdraw. If this firm would like to receive future correspondence regarding this application, the proper power attorney of documents must be submitted.

There are no outstanding Office actions at this time.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Anthony Insogna, Esq.
Jones Day
12750 High Bluff Drive, Suite 300
San Diego, CA 92130-2825

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MAY 28 2009

OFFICE OF PETITIONS

Morrison & Foerster, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Mingdong Zhou	:	
Application No. 10/997,167	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. 524012000601	:	FROM RECORD
	:	

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 1, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Peng Chen and all attorneys/agents of record has been revoked by the applicant of the patent application on October 12, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Jones Day
222 East 41st Street
New York, NY 10017

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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Stephen E. Arnett
PERKINS COIE LLP
P.O. Box 1247
Seattle, WA 98111-1247

Mail Date: 04/21/2010

Applicant	: Charles D. Cretors	: DECISION ON REQUEST FOR
Patent Number	: 7658143	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,181	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Stephen E. Arnett
PERKINS COIE LLP
P.O. Box 1247
Seattle, WA 98111-1247

Mail Date: 05/18/2010

Applicant : Charles D. Cretors
Patent Number : 7658143
Issue Date : 02/09/2010
Application No : 10/997,181
Filed : 11/24/2004

: 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 **1424** 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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1-16-07

Patent No. : 7,193,404
Ser. No. : 10/997,195
Inventor(s) : Russell Weightman
Issued : March 20, 2007
Title : LOAD CONTROL CIRCUIT AND METHOD FOR ACHIEVING REDUCED ACOUSTIC NOISE
Docket No. : P/10-722

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
40l Dulany Street
Alexandria, VA 22314

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

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

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

Louis C. Dujmich
Ostrolenk, Faber, Gerb & Soffen, LLP
1180 avenue of the Americas
New York, NY 10036-8403

ej

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MINTZ, LEVIN, COHN, FERRIS,
GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JUN 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Marasco, et al.	:	
Application No. 10/997,201	:	ON APPLICATION FOR
Filed: November 24, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 20363-026	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR § 1.705(b), filed January 7, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is eight hundred forty-three (843) days, not two hundred twenty-eight (228) days, as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants dispute a period of reduction associated with the filing of a complete response to the March 18, 2005 Notice to File Missing Parts of Nonprovisional Application.

To the extent that applicants request 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 patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). 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 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, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **GRANTED to the extent indicated herein.**

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 one hundred three (103) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

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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.

On October 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment is 228 days. On January 7, 2009, applicants submitted the instant request for reconsideration of patent term. Applicants dispute the reduction of 26 days associated with filing a complete reply to the March 18, 2005 Notice to File Missing Parts of Nonprovisional Application.

On March 18, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application that required applicants to submit replacement drawings, an executed oath or declaration, a surcharge for its late filing, and a sequence listing. Applicants were required to provide an initial computer readable form (CRF) copy of the sequence listing, an initial paper or compact disc (CD) copy of the sequence listing, as well as an amendment directing its entry into the application. Applicants also were required to provide a statement that the content of the sequence listing information recorded in computer readable form is identical to the written (on paper or CD) sequence listing and, where applicable, includes no new matter. On May 17, 2005 applicants filed a response.

On June 7, 2005, the Office mailed a Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures, notifying applicants that the sequence listing in CRF is objected to because the contents of the CRF does not comply with the requirements of 37 CFR 1.822 and/or 1.823.

On July 14, 2005, applicants filed a reply to the Notice to Comply in the form of a substitute paper copy of the sequence listing, a substitute CRF of the sequence listing, a statement that the content of the sequence listing information recorded in the CRF is identical to the written sequence listing and that it contains no new matter, and a supplemental prelimiinary amendment.

Applicants argue that they did not fail to engage in reasonable efforts to conclude processing or examination because applicants responded to each notice mailed within three months of the mail date of each notice.

In this instance, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to completely reply to the original March 18, 2005 Notice within

the three-month period provided for in 37 CFR 1.704(b). Applicants filed a partial response on May 17, 2005. Applicants did not file a complete response until July 14, 2005. It is applicants' responsibility to file complete responses to Office actions/Notices. The subsequently mailed Notice to Comply did not set forth new requirements. It merely pointed out that applicants had failed to file a proper response to the March 18, 2005 Notice.

Accordingly, the period of adjustment should have been reduced by 58 days pursuant to 37 CFR 1.704(c)(7), counting the number of days beginning on the day after the date the initial reply was filed, May 18, 2005, and ending on the date that a complete response was filed, July 14, 2005. Accordingly, a period of reduction of 26 days will be removed and a period of reduction of 58 days will be entered.

A review of the patent term adjustment calculations for this application has revealed another basis for reduction. On March 26, 2009, the Office mailed a final Office action. Applicants filed a reply on September 28, 2009. This reply after final Office action was filed beyond the three-month period provided for in section 1.704(b). In accordance with 37 CFR 1.704(b), the period of adjustment of the term of the patent should have been reduced by 93 days, counting the number of days in the period beginning on the day after the date that is three months after the mailing date of the final Office action, June 27, 2009, and ending on the date the reply was filed, September 28, 2009. Accordingly, a period of reduction of 93 days will be entered.

In view thereof, the correct patent term adjustment at the time of mailing of the notice of allowance is **one hundred three (103)** days (440 days Office delay minus 337 (58+91+91+4+93) days Applicant delay).

The Office acknowledges receipt 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 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 Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 5/31/2010

PALM INTRANET

Time: 09:20:19

PTA Calculations for Application: 10/997201			
Application Filing Date:	11/24/2004	PTO Delay (PTO):	440
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	212
Post-Issue Petitions:	0	Total PTA (days):	103
PTO Delay Adjustment:	-125		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
74	05/31/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		125	
66	10/07/2009	MAIL NOTICE OF ALLOWANCE			
65	09/28/2009	MISCELLANEOUS INCOMING LETTER			
64	09/28/2009	MISCELLANEOUS INCOMING LETTER			
63	09/28/2009	AMENDMENT CROSSED IN MAIL			
62	09/30/2009	ISSUE REVISION COMPLETED			
61	09/30/2009	DOCUMENT VERIFICATION			
60	09/30/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
59	09/30/2009	NOTICE OF ALLOWABILITY			
56	03/26/2009	MAIL FINAL REJECTION (PTOL - 326)			
55	03/16/2009	FINAL REJECTION			
54	01/02/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
53	12/15/2008	MISCELLANEOUS INCOMING LETTER			
52	12/29/2008	DATE FORWARDED TO EXAMINER			
51	12/15/2008	SUPPLEMENTAL RESPONSE		4	49
50	12/15/2008	DATE FORWARDED TO EXAMINER			
49	12/11/2008	RESPONSE AFTER NON-FINAL ACTION		91	47
48	12/11/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	06/11/2008	MAIL NON-FINAL REJECTION			
46	06/09/2008	NON-FINAL REJECTION			
42	02/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	02/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	39

40	03/27/2008	DATE FORWARDED TO EXAMINER			
39	02/22/2008	RESPONSE AFTER NON-FINAL ACTION		91	36
38	02/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	02/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
36	08/23/2007	MAIL NON-FINAL REJECTION			
35	08/20/2007	NON-FINAL REJECTION			
34	10/27/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	06/23/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
32	05/22/2007	DATE FORWARDED TO EXAMINER			
31	05/09/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
30	04/09/2007	MAIL RESTRICTION REQUIREMENT	440		-1
29	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
28	03/30/2007	CASE DOCKETED TO EXAMINER IN GAU			
27.7	10/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	10/27/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
26	09/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
25	09/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
24	07/14/2005	PRELIMINARY AMENDMENT			
23	06/23/2005	REFERENCE CAPTURE ON IDS			
22.7	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22	06/23/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
21	05/17/2005	PRELIMINARY AMENDMENT			
20	08/02/2005	APPLICATION DISPATCHED FROM OIPE			
19	08/02/2005	APPLICATION IS NOW COMPLETE			
18	07/14/2005	ADDITIONAL APPLICATION FILING FEES		26	7
17	07/14/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
16	07/25/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
15	06/07/2005	SEQUENCE ERRORS			
13	05/17/2005	ADDITIONAL APPLICATION FILING FEES			

12	05/17/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
11	05/17/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
10	05/17/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
9	05/17/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
8	05/26/2005	CRF IS FLAWED TECHNICALLY / NOT ENTERED INTO DATABASE			
7	03/18/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	01/13/2005	CLEARED BY L&R (LARS)			
3	12/18/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/11/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/24/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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JAN 12 2005

Joseph E. Zahner
3646 Dover Place
St. Louis MO 63116

In re Application of:	:
U. R. Ezekiel	:
Serial No.: 10/997,203	: PETITION TO MAKE SPECIAL
Filed: November 24, 2004	:
Attorney Docket No.: GPT 04-001	:

This is in response to applicant's petition filed November 24, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d) [not (c) as applicant set forth in his petition], based on applicants who are small entities having applications relating to biotechnology.

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

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

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

BAKER BOTTS L.L.P.
PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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MAY 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Yannick Martelloni	:	
Application No. 10/997,206	:	DECISION DISMISSING PETITION
Filed: November 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 068758.0284	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 21, 2007, 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 May 16, 2007. 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 $790 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 regarding this decision should be directed to April Wise at (571) 272-1642.

Frances M. Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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September 7, 2006

FILE COPY

Patent No. : 6,987,372 B1
Ser. No. : 10/997225
Inventor(s) : Wu, et al.
Issued : January 17, 2006
Title : **INTEGRATED DC LINK CHOKE AND METHOD FOR SUPPRESSING COMMON-MODE VOLTAGE IN A MOTOR DRIVE**
Docket No. : ALBRP207USB

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 Rules 1.322 and 1.323.

A petition under C.F.R. 1.182 is required to correct errors in spelling or order of inventors names or addresses, since inventor's names or addresses are printed solely in accordance with the type-written names and address and in the order of the type- written names and address on the Declaration, and since the error was the result of applicant's failure to comply with the requirement that the complete and correct names and addresses in correct order be indicated on the Declaration of Oath, no correction is in order here under the provisions of Rules 1.323, unless a petition is granted.

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

However, a petition under 37 CFR 1.182 should be directed to the attention of the Assistant Commissioner for Patents using the following mailing address or FAX number.

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

By Fax: (571) 272-8300
Attn: Office of Petitions

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

Elisha Evans
Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
703 308- 9390 EXT. 110

ROCKWELL AUTOMATION, INC./(AT)
ATTENTION: SUSAN M. DONAHUE
1201 SOUTH SECOND STREET
MILWAUKEE WI 53204

CBN/eme

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

TAMSEN VALOIR, PH.D.
BAKER & MCKENZIE LLP
PENNZOIL PLACE, SOUTH TOWER
711 LOUISIANA, SUITE 3400
HOUSTON, TX 77002-2746

Mail Date: 05/28/2010

Applicant	: Ubaldo Mastromatteo	: DECISION ON REQUEST FOR
Patent Number	: 7635454	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/997,235	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JOHN ALEMANNI
KILPATRICK STOCKTON LLP
1001 W. FOURTH ST.
WINSTON-SALEM, NC 27401

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MAY 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Steven J. Wolf et al	:	
Application No. 10/997,244	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. 49942-303829	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 2, 2002.

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

A review of the file record indicates that the power of attorney to John Alemanni has been revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Goran P. Stojkovick
c/o Nelson, Mullins, Riley & Scarborough LLP
380 Knollwood Street
Winston-Salem, NC 27103

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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JELD-WEN, Inc. – Stoel Rives LLP
900 SW Fifth Avenue
Suite 2600
Portland, OR 97204-1268

MAILED

OCT 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Steven J. Wolf et al	:	
Application No. 10/997,244	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. 26401/09014	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed September 9, 2009.

The request is **APPROVED**.

A review of the file record indicates that Goran P. Stojkovich: (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, Goran P. Stojkovich 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).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Goran P. Stojkovich
380 Knollwood Street, Suite 530
Winston Salem, NC 27103

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MORRISON & FOERSTER LLP
425 MARKET STREET
SAN FRANCISCO CA 94105-2482

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application of	:	
DANITZ, David J.	:	
Application No. 10/997,245	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. **506512002800**	:	FROM RECORD
	:	

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 28, 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 Thomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **DAVID J. DANITZ**
5030 NEW TRIER AVENUE
SAN JOSE, CA 95136

cc: **JAY SHAY**
SHAY LAW GROUP LLC
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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OFFICE OF PETITIONS

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

In re Application of

DANITZ, David j. et al.
Application No. 10/997,249
Filed: November 24, 2004
Attorney Docket No. **506512002300**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 28, 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 Thomas E. Ciotti 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: **DAVID J. DANITZ**
5030 NEW TRIER AVENUE
SAN JOSE, CA 95136

cc: **JAMES SHAY**
SHAY LAW GROUP LLC
2755 CAMPUS DRIVE, SUITE 210
SAN MATEO, CA 94403

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SEP 23 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052

In re Application of
MOWATT, DAVID et al. :
Application No. 10/997,255 : DECISION ON PETITION
Filed: November 24, 2004 :
For: **CONTROLLED MANIPULATION OF CHARACTERS** :

This is a decision on the petition filed July 31, 2009 under 37 CFR 1.181 to suspend[1] Applicant's duty to reply to office action and/or withdraw office action dated May 12, 2009.

Applicants request a period of suspension for not more than 6 months. The reason for the request is to relieve the Applicant from the unnecessary expense associated with waiting for the correction of the inventorship in the Mowatt reference before filing a response in this application.

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 Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

37 CFR § 1.103 Suspension of action by the Office, states in part:

(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. <u>The Office will not suspend action if a reply by applicant to an Office action is outstanding.</u> 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.

37 CFR § 1.111 Reply by applicant or patent owner to a non-final Office action.

(a)
(1) If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner, <u>if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment.</u>
(2) Supplemental replies . (i) A reply that is supplemental to a reply that is in compliance with § 1.111(b) will not be entered as a matter of right except as provided in paragraph (a)(2)(ii) of this section. The Office may enter a supplemental reply if the supplemental reply is clearly limited to:

[1] Note petition for suspension of rules is filed under 37 CFR 1.183.

(A) Cancellation of a claim(s);
(B) Adoption of the examiner suggestion(s);
(C) Placement of the application in condition for allowance;
(D) Reply to an Office requirement made after the first reply was filed;
(E) Correction of informalities (e.g., typographical errors); or
(F) Simplification of issues for appeal.
(ii) A supplemental reply will be entered if the supplemental reply is filed within the period during which action by the Office is suspended under § 1.103(a) or (c).
(b) In order to be entitled to reconsideration or further examination, the applicant or patent owner must reply to the Office action. The reply by the applicant or patent owner must be reduced to a writing which distinctly and specifically points out the supposed errors in the examiner's action and must reply to every ground of objection and rejection in the prior Office action. The reply must present arguments pointing out the specific distinctions believed to render the claims, including any newly presented claims, patentable over any applied references. If the reply is with respect to an application, a request may be made that objections or requirements as to form not necessary to further consideration of the claims be held in abeyance until allowable subject matter is indicated. The applicant's or patent owner's reply must appear throughout to be a bona fide attempt to advance the application or the reexamination proceeding to final action. A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.
(c) In amending in reply to a rejection of claims in an application or patent under reexamination, the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

A review of the application reveals that an RCE was properly filed March 16, 2009. The office subsequently issued a non-final office action on May 12, 2009 in response to the RCE. Application is currently awaiting a reply by applicant. In accordance with 37 CFR 1.103(a), the office will not suspend action if a reply by applicant to an office action is outstanding. Furthermore, as required of the statute 35 USC 133, "upon failure of the applicant to prosecute the application within six months after any action thereof, of which notice has been given or mailed to the applicant...the application shall be regarded as abandoned by the parties thereto". Finally in accordance with 37 CFR 1.111, "If the Office action after the first examination (§ 1.104) is adverse in any respect, the applicant or patent owner if he or she persists in his or her application for a patent or reexamination proceeding, must reply and request reconsideration or further examination, with or without amendment. See §§ 1.135 and 1.136 for time for reply to avoid abandonment." Also, "in order to be entitled to further examination the applicant must reply to the office action." Therefore, since there is a reply by applicant that is outstanding and a requirement for applicant to respond to the outstanding office action within the prescribed period for response, there is no basis for suspending applicant's duty to respond to the office action mailed May 12, 2009. Nor is there any basis for the non-final office action dated May 12, 2009 to be withdrawn.

Accordingly, Applicants request to suspend applicant's duty to reply in this application and/or withdraw the office action dated May 12, 2009 is **DENIED**.

The application remains in the status non-final office action mailed May 12, 2009. A shortened statutory period for response of three months from the mailing date of the office action has expired. Applicant may file for an extension of time to reply to the outstanding office action in accordance with 37 CFR 1.136(a) up to the maximum period to reply as set by statute.

Matthew Bella, Acting Director
Technology Center 2600
Communications

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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CORNING CABLE SYSTEMS LLC
C/O CORNING INC., INTELLECTUAL PROPERTY DEPARTMENT
SP-TI-3-1
CORNING, NY 14831

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MAY 2 5 2007

OFFICE OF PETITIONS

In re Application of Escoto et al. :
Application No. 10/997,280 :
Filing Date: November 24, 2004 :
Attorney Docket No. HE0256 :

Decision on Petition

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

The petition is **granted**.

The above-identified application became abandoned for failure to submit the issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed September 6, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 7, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The petition is signed by attorney Keith Roberson. Attorney Roberson was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears attorney Roberson was not in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by attorney Roberson that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

---

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
David S. Abdallah, et al. :
Application No. 10/997,291 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. PRIV-006/01US307640-2026 :

This is a decision on the communication, filed March 9, 2007, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to a Notice of Non-Compliant Amendment mailed February 15, 2006, which set a one-month period for reply. A Notice of Abandonment was mailed on September 7, 2006. In response on March 9, 2007, the present petition was filed.

Petitioner states that a timely reply was mailed via certificate of mailing on August 15, 2006. Petitioner has submitted a copy of the previously mailed correspondence, bearing a certificate of mailing dated August 15, 2006. The file record indicates that the originally submitted papers were ultimately received on September 5, 2006. It is noted that while the response included a 3-month petition for extension of time, with authorization to change any fee deficiency, a 5-month extension of time was necessary to be considered timely. Consequently, the difference between a 3-month and 5-month extension of time fee of $570 is required and will be charged to present counsel's deposit account as authorized.

Failure to receive correspondence which includes a certificate of mailing or certificate of facsimile transmission is addressed in 37 CFR 1.8(b), reproduced below:

> In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received

in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

(1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

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

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

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of February 15, 2006 is hereby withdrawn and the application restored to pending status.

This application is being referred to Technology Center AU 2629 for appropriate action in the normal course of business on the reply received with petition.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 21 2007

OFFICE OF PETITIONS

Kimberly A. Chasteen
PO Box 1243
Yorktown VA 23692

In re Application of	:	
David G. Kent	:	
Application No. 10/997,294	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. 039527.0002	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 15, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 16, 2006. The Notice of Abandonment was mailed October 20, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; 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 Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3617 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Kimberly A. Chasteen**
William Mullen
721 Lakefront Commons, Suite 200
Newport News, VA 23606

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

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Douglas L. Sandy	: DECISION ON REQUEST FOR
Patent Number	: 7620047	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,300	: 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 **1361** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Alexandria, Virginia 22313-1450
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Beyer Law Group LLP
P.O. BOX 1687
Cupertino, CA 95015-1687

Mail Date: 04/20/2010

Applicant	: Bradley W. Rice	: DECISION ON REQUEST FOR
Patent Number	: 7629573	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,324	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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 PTA days determined by the recalculation.

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

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

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

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

APR 1 1 2006

In re Application of	:	
Peter A. Nick, Hugh Hunnicutt, Robert Roy Peters,	:	
Eric Anderson, Geoffrey Dolbear	:	
Serial No:10/997,334	:	PETITION UNDER
Filed: November 23, 2004	:	M.P.E.P. 708.02, IV
For: PROCESS FOR PYROLYTIC HEAT RECOVERY	:	
ENHANCED WITH GASIFICATION OF ORGANIC	:	
MATERIAL	:	

This is in response to the petition filed November 23, 2004, requesting that the above-identified application be granted Special Status under Section 708.02, IV of the MPEP and 37 CFR 1.102(c).

The petition lacks evidence showing that the applicant is of 65 years of age or more, such as a birth certificate, copy of driver's license or **applicant's** statement of age. Accordingly, the petition is denied.

The petition is **DENIED**

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

ELEA BREWER LUTZ
14887 NORTH 103RD STREET
SCOTTSDALE, AZ 85255

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Lutz, Elea Brewer	:	
Application No. 10/997,335	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. 90013.00888	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 27, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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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SQUIRE SANDERS & DEMPSEY LLP
TWO RENAISSANCE SQUARE,
40 NORTH CENTRAL AVENUE
SUITE 2700
PHOENIX AZ 85004-4498

MAILED

MAY 22 2009

OFFICE OF PETITIONS

In re Application of

Elea Brewer Lutz

Application No. 10/997,335

Filed: November 23, 2004

Attorney Docket No. 90013.00888

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed December 5, 2008.

The petition is **dismissed**.

This application was held abandoned October 18, 2007, after no reply was received to the Notice to File Corrected Application Papers mailed August 17, 2007. The notice set forth a period of reply of sixty days from its mailing date. No response was received within the allowable period and the application became abandoned on October 18, 2007. A Notice of Abandonment was mailed May 20, 2008. The instant petition was filed on December 5, 2008. Petitioner maintains that the notice of August 17, 2007, was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of

> the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.<

Petitioner has not made the evidentiary showing specified above. The petition is dismissed accordingly. The renewed petition must be accompanied by a copy of petitioner's **master docket record**, or, if a master docket does not exists, the renewed petition should so state.

It is also noted that the Notice to File Corrected Application Papers was mailed to the address of the sole inventor, yet the petition indicates that the Notice was not received at the firm of Squire Sanders & Dempsey. It is further noted that the power of attorney was not granted to Squire Sanders & Dempsey until December 5, 2008, and the correspondence address of record was not changed to this firm until December 5, 2008, which is long after the Notice was mailed on August 17, 2007. Petitioner must, therefore, establish that the Notice was not received at the correspondence address record as it was on August 17, 2007, which appears to be that of the sole inventor.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,620.00 for a large entity and $810.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SAND & SEBOLT
AEGIS TOWER SUITE 1100
4940 MUNSON STREET NW
CANTON OH 44718-3615

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AUG 2 1 2006

OFFICE OF PETITIONS

In re Application of		
Henry, et al.	:	
Application No. 10/997,342	:	DECISION ON
Filed: November 24, 2004	:	PETITION
Attorney Docket No. 2219001US1AP	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 17, 2006.

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

The above-identified application became abandoned for failure to pay the issue fee in response to the Notice of Allowance mailed October 7, 2005. This notice set a statutory period of three months for fee transmittal. No issue fee having been received, the application became abandoned on January 8, 2006. The mailing of this decision precedes the mailing of a Notice of Abandonment.

With the instant petition, petitioner paid the petition and issue fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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AUG 0 8 2008

In re Application of	:	
Christophe De GAILLANDE et al.	:	
Application No. 10/997,348	:	DECISION ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. P/4599-11	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 12, 2008 and resubmitted March 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 10, 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 November 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of August 10, 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 3742 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
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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PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15TH STREET, NW
WASHINGTON, DC 20005

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APR 01 2010

OFFICE OF PETITIONS

In re Application of	:	
Tarek Sultan	:	DECISION ON PETITION
Application No. 10/997,353	:	TO WITHDRAW
Filed: November 24, 2004	:	FROM RECORD
Attorney Docket No. SABA-0027	:	

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 28, 2010.

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

A review of the file record indicates that on March 2, 2010 the power of attorney to Paul, Hastings, Janofsky & Walker LLP 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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

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CENTRAL FAX CENTER
NOV 28 2005

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office to facsimile number (571) 273-8300 addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on November 28, 2005

Cathy Pittman

Cathy Pittman

Appl. No.	:	10/997,368	Confirmation No.	7494
Applicant	:	Buddy Ratner et al.		
Filed	:	November 23, 2004		
TC/A.U.	:	1754		
Examiner	:	Wayne Langel		
Docket No.	:	2103433-991101		
Customer No.	:	26379		

Title: METHOD AND DEVICE FOR HYDROGEN STORAGE AND DELIVERY

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

* * *

PETITION TO MAKE SPECIAL FOR INVENTIONS RELATING TO ENVIRONMENTAL QUALITY AND INVENTIONS RELATED TO DEVELOPMENT OF ENERGY RESOURCES

Dear Sir/Madam:

Applicants submit this Petition to the Commissioner under 37 C.F.R. § 1.102 and M.P.E.P. 708.02(V) and (VI) to make special and advance the examination of the above-identified application, because the invention 1) discloses and claims inventions that materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water and soil under M.P.E.P. 708.02(V); and 2) discloses and claims inventions that materially contribute to the discovery or development of energy resources under M.P.E.P. 708.02(VI.A.). Applicants submit that this

PAGE 3/6 * RCVD AT 11/28/2005 3:28:57 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-6/26 * DNIS:2738300 * CSID:

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

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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DLA PIPER RUDNICK GRAY CARY US, LLP
2000 UNIVERSITY AVENUE
E. PALO ALTO CA 94303-2248

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Ratner et al
Application No.10/997,368
Filed: November 23, 2004
Attorney Docket Number: 2103433-991101

Title of Invention: Method For Hydrogen Storage and Delivery

This is a decision on the petition filed September 15, 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 May 9 , 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 August 10, 2006. This decision precedes the mailing of a Notice of Abandonment.

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

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OFFICE OF PETITIONS

Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

In re Application of	:	
Cameron D. Hinman et al.	:	
Application No. 10/997,372	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 506512002700	:	FROM RECORD
	:	

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 28, 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 Thomas E. Ciotti on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Cameron D. Hinman**
500 Roaring Gap Road
Thurmond, NC 28683

cc: **James Shay**
Shay Law Group LLC
2755 Campus Drive, Suite 210
San Mateo, CA 94403

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
10/997,372	11/23/2004	Cameron D. Hinman	506512002700

CONFIRMATION NO. 7468

OC000000025194687

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

Date Mailed: 08/03/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/28/2007.

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

Terri Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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LATIMER INTELLECTUAL PROPERTY LAW, LLP
P.O. BOX 711200
HERNDON, VA 20171

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OFFICE OF PETITIONS

In re Application of	:	
Gross et al.	:	DECISION ON PETITION
Application No. 10/997,384	:	TO WITHDRAW
Filed: November 24, 2004	:	FROM RECORD
Attorney Docket No. (7083) 2664H-125/US	:	

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, 2010, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

A review of the file record indicates that Latimer Intellectual Property Law, LLP does not have power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence address of record is not accepted in view of Latimer Intellectual Property Law, LLP not having power of attorney. See MPEP §§ 601.03 and 405.

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

Currently, there is no outstanding Office action that requires a reply.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: COLGATE-PALMOLIVE COMPANY
909 RIVER ROAD
PISCATAWAY NJ 08855

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A. RICHARD PARK
PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95616

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MAY 19 2005

OFFICE OF PETITIONS

In re Application of	:	
Vipul Y. Parikh et al.	:	
Application No. 10/997,394	:	DECISION GRANTING
Filed: November 24, 2004	:	STATUS UNDER 37 CFR 1.47(a)
Attorney Docket No. SUN05-0153-ACC	:	

This is in response to the petition filed November 24, 2004, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **granted.**

Petitioner has shown that the non-signing inventor (Quinn A. Jacobson) has refused to join in the filing of the above-identified application.

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

The file 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 related to this decision should be directed to Irvin Dingle at (571) 272-3210.

Frances Hicks

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

cc:

A. Richard Park
Park Vaughan & Fleming LLP
508 Second Street, Suite 201
Davis, CA 95616

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PVF -- SYNOPSYS, INC
c/o PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: Xin Wang	: DECISION ON REQUEST FOR
Patent Number	: 7594213	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,396	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: 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.

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MORGAN LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

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OCT 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Shawn DeFrees et al	:	
Application No. 10/997,405	:	DECISION ON PETITION
Filed: November 24, 2004	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 40853-01-5142-US	:	

This is a decision on the petition under 37 CFR 1.313(c), filed October 15, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED**.

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

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

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

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

CERTIFICATE OF ELECTRONIC TRANSMISSION

I hereby certify that this correspondence, including listed enclosures is being electronically transmitted in Portable Document Form (PDF) through EFS-Web via Hyper Text Transfer Protocol to the United States Patent and Trademark Office's Patent Electronic Business Center on:

Dated: Oct. 15, 2007

Signed: Kathryn Deghanton

PATENT

Attorney Docket No.: 40853-01-5142-US
Client Ref. No.: NEO00293US

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Shawn DeFrees, *et al.*

Application No.: 10/997,405

Filed: November 24, 2004

For: GLYCOPEGYLATED ERYTHROPOIETIN

Confirmation No.: 9061

Examiner: Heard, Thomas S.

Art Unit: 1654

PETITION TO WITHDRAW PATENT FROM ISSUE AFTER PAYMENT OF ISSUE FEE PURSUANT TO 37 C.F.R. § 1.313(c)(2)

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

Sir:

A Notice of Allowance was mailed on June 27, 2007 and the Issue Fee was paid on September 24, 2007 in the above-referenced patent application. Applicants request the withdrawal from issue of this application as provided in 37 C.F.R. § 1.313(c)(2) in order to file a Request for Continued Examination pursuant to 37 C.F.R. § 1.114 and a Supplemental Information Disclosure Statement.

Please charge the $130.00 petition fee according to 37 C.F.R. § 1.17(h) to the undersigned's Deposit Account No. 50 0310. Please also charge or credit to said deposit account any other fee or refund attendant to this matter.

Application No.: 10/997,405
Petition Under 1.313(c)(2)

PATENT

Respectfully submitted,

Ute Splittgerber (Reg. No. 60,347)

MORGAN, LEWIS & BOCKIUS, LLP
Two Palo Alto Square
3000 El Camino Real, Ste. 700
Palo Alto, CA 94306
Tel. (415) 442-1000
Direct Dial: (415) 442-1793
eFAX: (650) 843-4001
e-mail: usplittgerber@morganlewis.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

COPY MAILED

OCT 2 3 2007

OFFICE OF PETITIONS

In re Application of :
Shawn DeFrees et al :
Application No. 10/997,405 :
Filed: November 24, 2004 :
Attorney Docket No. 40853-01-5142-US

ON PETITION

This is a decision on the renewed petition, filed October 18, 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 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Jonathan Jaech
c/o O'MELVENY & MYERS LLP
400 South Hope Street
Los Angeles CA 90071-2899

MAIL

JAN 28 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
Robert J. Tushinsky, et al.
Application No. 10/997,421
Filed: November 23, 2004
For: **FASHION ACCESSORY WITH WIRELESS SIGNAL ALERTING DEVICE**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition to make special pursuant to 37 C.F.R. §1.102 and MPEP §708.02 (IV) (applicant's age) filed November 23, 2004.

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

The petition includes a statement by Morton Gorowitz that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

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

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

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications
(703) 305-4778

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

January 22, 2009

Grant D. Kang
Kang Intellectual Property Law, LLC
214 Elm Street, Suite 106
Washington, MO 63090

Patent No.: 7,464,620 B2
Application No.: 10/997,426
Inventor(s): Zhihang Li, et al.
Issued: December 16, 2008
Title: **ACTUATOR**

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 Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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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Fenwick & West
Silicon Valley Center
801 California Street
Mountain View CA 94041

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JUL 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Lamb et al.	:	DECISION ACCORDING STATUS
Application No. 10/997,435	:	UNDER 37 CFR 1.47(a)
Filed: November 24, 2004	:	
Attorney Docket No. 61133-09557	:	

This is in response to the petition under 37 CFR 1.47(a), filed June 2, 2005.[1]

The petition is granted.

Petitioner has shown that Michael Lamb, the non-signing inventor, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the declaration of facts of Rimma Budnitskaya establishes that the inventor was presented with the application papers, including the specification, claims and drawings, via email and Federal Express, but refused the request that he sign the declaration.

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

The application is being referred to Technology Center Art Unit 3626 for examination in due course.

---

[1] Petitioner obtained a three-month extension of time to reply. Accordingly, the petition is filed timely. Additionally, petitioner submitted $130.00 for the petition fee. However, the current petition fee is $200.00. Therefore, the difference of $70.00 was charged to Deposit Account No. 19-2555, as authorized.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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In re Application of	:	
KERFOOT, William B.	:	
Application No. 10/997,452	:	DECISION GRANTING PETITION
Filed: November 24, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **10578-002006**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 26, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 27, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.134, the signature of Mr. Curtis A. Vock 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. Vock desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to petitioner herein. However, until otherwise instructed, all future correspondence regarding this application will be directed solely to the above-noted correspondence of record.

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

This application is being referred to Technology Center AU 1624 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner
Office of Petitions

cc: **LATHROP & GAGE, LC**
4845 PEARL EAST CIRCLE, SUITE 300
BOULDER, CO 80301

---

[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

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

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 07/13/2010

Applicant	: Peter A. Quigley	: DECISION ON REQUEST FOR
Patent Number	: 7647948	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/997,453	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1411** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Patent No. 7,521,623	:	DECISION ON REQUEST FOR
ADAM BOWEN	:	RECONSIDERATION OF
Issue Date: April 21, 2009	:	PATENT TERM ADJUSTMENT AND
Application No. 10/997,479	:	NOTICE OF INTENT TO ISSUE
Filed: November 24, 2004	:	CERTIFICATE OF CORRECTION
Docket No. APL1P347/P3610US1	:	

This is a decision on the petition filed on April 24, 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 sixteen (716) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by seven hundred fifteen (715) 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 "B" delay period, the over three year period begins on November 25, 2007, and ends on May 22, 2008, the day before the RCE was filed, and is 180 (not 181) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 715, not 716 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, patentee 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 § 1.136.

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

This matter is being referred to the 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 **seven hundred fifteen (715) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,521,623 B2

DATED : Apr. 21, 2009 **DRAFT**

INVENTOR(S) : BOWEN

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 535 days

Delete the phrase "by 535 days" and insert – by 715 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
225 FRANKLIN ST
BOSTON MA 02110

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of Shull et al. Application No. 10/997,498 Filed: November 24, 2004 For: OPTICAL FIBER CONNECTORS AND SYSTEMS INCLUDING OPTICAL FIBER CONNECTORS Attorney Docket No. 09712-356001 / Z-463	Decision on Petition

The above-identified application has been forwarded to this office for consideration of the paper styled "Request to Rescind Request For Early Publication Request" received on March 18, 2005, which is being treated as a petition under 37 CFR 1.182 for Questions Not Specifically Provided For.

The petition is granted.

Applicant requested early publication on November 24, 2004. The application was being scheduled for early publication. The application has been rescheduled for publication, but has not yet been assigned a projected publication date, as the application is undergoing security review.

The petition fee of $400.00 under 37 CFR 1.17(f) has been charged to petitioners' Deposit Account No. 06-1050. The publication fee will not be refunded, as the fee was properly paid by applicant. See 37 CFR 1.26(a). Applicant requested early publication and he was properly charged the publication fee.

Telephone inquiries regarding this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta for KF

Karin Ferriter
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Attorney's Docket No.: 09712-356001 / Z-463

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant : Shull et al.
Serial No. : 10/997,498
Filed : November 24, 2004
Title : OPTICAL FIBER CONNECTORS AND SYSTEMS INCLUDING OPTICAL FIBER CONNECTORS

Art Unit : 2874
Examiner : Unknown

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

REQUEST TO RESCIND REQUEST FOR EARLY PUBLICATION

Applicant hereby request that the request for early publication be rescinded.

Please apply any charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

Date: 3/18/2005

Chris C. Bowley
Reg. No. 55,016

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110-2804
Telephone: (617) 542-5070
Facsimile: (617) 542-8906

21049845.doc

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03/28/2005 AKELLEY 00000003 061050 10997498
01 FC:1462 400.00 DA

CERTIFICATE OF TRANSMISSION BY FACSIMILE

I hereby certify that this correspondence is being transmitted by facsimile to the Patent and Trademark Office on the date indicated below.

Date of Transmission

Signature

Patricia Smith
Typed or Printed Name of Person Signing Certificate

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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JUN 14 2005

SCHMEISER OLSEN & WATTS
18 E UNIVERSITY DRIVE
SUITE # 101
MESA AZ 85201

In re Application of	:	
Clark Ronnow	:	
Serial No.: 10/997,499	:	DECISION ON PETITION
Filed: November 24, 2004	:	
For: Exercise Device	:	

This is in response to applicants' petition filed November 24, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt, by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

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DEC 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Cheree L. B. Stevens, et al.	:	
Application No. 10/997,518	:	NOTICE
Filed: November 24, 2004	:	
Attorney Docket No.: ADV12 P-306A		

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 no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

MAILED

MAR 27 2009

OFFICE OF PETITIONS

In re Application of
SHASHOUA, VICTOR E. :
Application No. 10/997,519 : ON APPLICATION FOR
Filed: November 24, 2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 10371.70001US03:

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(B) filed February 23, 2009. Applicant requests that the determination of patent term adjustment be corrected from zero days to 366 days. 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,524,819	:	
VICTOR E. SHASHOUA	:	DECISION ON
Issue Date: April 28, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 10/997,519	:	OF
Filed: November 24, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 10371.70001US03	:	

This is a decision on the "REQUEST FOR RECONSIDRATION UNDER 37 C.F.R. §1.705(D)", filed May 5, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from two hundred six (206) days to three hundred twenty-four (324) days.

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

On April 28, 2009, the above-identified application matured into US Patent No. 7,524,819 with a revised patent term adjustment of 206 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, where there is no overlap between the PTO delay under 35 U.S.C. 154(b)(1)(A) and the delay under 35 U.S.C. 154(b)(1)(B), the correct calculation for patent term adjustment is the sum of PTO delay plus Three Year delay. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.702(b), of 521 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 118 days do not overlap.

The 521-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 24, 2004, and the patent having been issued on April 28, 2009, three years and 521 days later. Patentees assert that in addition to this 521-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 118 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 Restriction Requirement was mailed on May 22, 2006, 14 months and 118 days after the application was filed on November 24, 2004.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 315 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 (521 days) and the period of Examination Delay (118 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 639 days, which is the sum of the period of Three Year Delay (521 days) and the period of Examination Delay (118 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 324 days (521 + 118 reduced by 0 overlap - 315 (applicant delay)).

The Office agrees that as of the issuance of the patent on April 28, 2009, the application was pending three years and 521 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 118 days is correct. At issue is whether patentees should accrue 521 days

of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 118 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 521 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, November 24, 2004 to April 28, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(i)(B)(i)-(iii)). 118 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified timeframe during the pendency of the application. The 521 days for Office delay in issuing the patent overlap with the 118 days accorded during the pendency of the application. During that time, the issuance of the patent was delayed by 118 days, not 118 + 521

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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).

days. The Office took 14 months and 118 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 118 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 521 days after its filing date. Accordingly, 403 days of patent term adjustment was properly entered since the period of delay of 521 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 118 days attributable to ground specified in § 1.702(a)(1).

Accordingly, at issuance, the Office properly entered 403 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent for a total Office delay of 521 days.

In view thereof, the revised determination of patent term adjustment at the time of the issuance of the patent remains 206 days.

The Office acknowledges the previous 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

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OFFICE OF PETITIONS

In re Application of	:	
Patrick Jenny et al	:	
Application No.10/997,539	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. T-6179	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed July 29, 2008, is accepted as having been unintentionally delayed.

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

CHRIS D. NORTHCUTT
1600 SMITH STREET, ROOM 20856B
HOUSTON, TX 77002

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AUG 0 8 2008

In re Application of	:	
Levette FLEMING	:	
Application No. 10/997,546	:	DECISION ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. 2026.001USU1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 01, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 02, 2006, which set a shortened statutory period for reply of three (3) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 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 $770.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the non-final Office action of November 02, 2006 is accepted as having been unintentionally delayed.

The power of attorney filed by applicant/inventor with the petition on April 01, 2008 has been accepted and made of record.

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 3754 for appropriate action on the concurrently filed amendment.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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HAYNES AND BOONE, LLP
IP Section
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Dallas, TX 75219

Mail Date: 04/21/2010

Applicant	: Eugene Lavretsky	: DECISION ON REQUEST FOR
Patent Number	: 7593793	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,548	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: 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.

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In re Application of :
Peiguang Zhou :
Application No. 10/997,557 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. KCC 4935 (K-C 17,051) :

This is a decision on the petition under 37 CFR 1.183 filed January 17, 2006.

The petition under 37 CFR 1.183 is **granted**.

Petitioner requests waiver of 37 CFR 1.125(d) pursuant to 37 CFR 1.183 to allow a substitute specification to be filed in the instant reissue application. Petitioner states that the examiner assigned to this application has indicated that the filing of a substitute specification is the most efficient way to further process the reissue application such that the changes made by the Certificate of Correction in the prior application are integrated into the subject reissue application. The request for waiver of 37 CFR 1.125(d) pursuant to 37 CFR 1.183 is granted.

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

The application file is being directed to Technology Center 1711, GAU 1711, for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Bruce D. George
BLANK ROME LLP
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Philadelphia, PA 19103

Mail Date: 04/23/2010

Applicant	: Timothy M. Schweikert	: DECISION ON REQUEST FOR
Patent Number	: RE40913	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,558	: OF WYETH
Filed	: 11/24/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of :
Geno Munari :
Application No. 10/997,567 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. 42981-00034U1 :

This is a decision on the petition under 37 CFR 1.53 filed March 28, 2005, requesting that the above-identified application be accorded a filing date of November 24, 2004, including six (6) sheets of drawings.

The application was submitted on November 24, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice Of Incomplete Nonprovisional Application" (Notice) that stated the application had not been accorded a filing date, and that the application was deposited without drawings.

In response, on March 28, 2005, the instant petition was submitted. Petitioner argues that six (6) sheets of drawings were filed on November 24, 2004. In support, the instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Drawings (6 pgs.)" on November 24, 2004. A review of the application file indicates the presence of zero (0) sheets of drawings filed on November 24, 2004. It is assumed that missing sheets of drawings were misplaced by the Office.

In view of the above, the petition is granted.

The $400.00 petition fee will be refunded to deposit account no. 50-2509.

This application will be returned to OIPE for further processing with a filing date of November 24, 2004, using the six (6) sheets of drawings, supplied on March 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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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
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Mail Date: 04/21/2010

Applicant	: Tao Li	: DECISION ON REQUEST FOR
Patent Number	: 7630324	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,573	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1366** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PCE INDUSTRY, INC.
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Mail Date: 05/18/2010

Applicant : Tao Li
Patent Number : 7630324
Issue Date : 12/08/2009
Application No : 10/997,573
Filed : 11/24/2004

: 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 **1408** 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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Mail Date: 04/21/2010

Applicant	: Keith Grant	: DECISION ON REQUEST FOR
Patent Number	: 7616669	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **784** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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MAR 12 2008

OFFICE OF PETITIONS

In re Patent No. 7,271,659 :
Issue Date: September 18, 2007 :
Application No. 10/997,591 : ON PETITION
Filed: November 24, 2004 :
Attorney Docket No. 02877/0202012-US0 :

This is a decision on the petition filed October 1, 2007, 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**.

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.

Petitioner requests issuance of a certificate of correction to add the name of "Acuid Corporation (Guernsey) Limited, (GB)." However, U.S. Patent and Trademark Office assignment records do not show that Acuid Corporation (Guernsey) Limited, (GB) was the assignee of record at the time of issuance of the application into a patent. Accordingly, a certificate of correction to add the name of Acuid Corporation (Guernsey) Limited, (GB) would not be proper.

Telephone inquiries concerning this decision on petition should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: Alexander R. Deas	: DECISION ON REQUEST FOR
Patent Number	: 7609119	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: 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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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: John L. Creigh	: DECISION ON REQUEST FOR
Patent Number	: 7607052	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,598	: 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 **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090901

DATE : August 24, 2009

TO SPE OF : ART UNIT 3641

SUBJECT : Request for Certificate of Correction on Patent No.: 7530315

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:

/MICHAEL CARONE/
Supervisory Patent Examiner.Art Unit 3641

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SCHIFF HARDIN LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

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JUN 27 2005
OFFICE OF PETITIONS

In re Application of	:	
Alan Letzt, Jacob P. Lefkowtz,	:	
Dianne F. Faseman	:	DECISION REFUSING
Application No. 10/997,625	:	STATUS UNDER § 1.47(a)
Filing Date: November 24, 2004	:	
Attorney Docket No. P03,0567-01	:	

This is in response to the "PETITION UNDER 37 CFR 1.47", filed May 2, 2005, which is being treated as a petition 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 inventors. **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 24, 2004, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on December 29, 2004. This Notice set an extendable period for reply of two months. On May 2, 2005, applicants filed the

instant petition, made timely by obtaining a two month extension of time and including a Certificate of Mailing dated April 28, 2004.

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 instant petition does not satisfy requirement (2).

As to requirement (2), petitioner has failed to submit an oath or declaration in compliance with 37 CFR 1.63. The declaration is not acceptable because it does not contain the post office address of the non-signing inventor. 37 CFR 1.63(c) states that "Unless such information is supplied on an application data sheet in accordance with 1.76, the oath or declaration must also identify: (1) the mailing address...of each inventor...."

On renewed petition, applicants must submit a declaration in compliance with 37 CFR 1.63.

Petitioner submitted $130 for the instant petition. A petition under 37 CFR 1.47(a) requires the petition fee set forth in 37 CFR 1.17(g), currently $200. Accordingly, $70 has been charged to Deposit Account No. 50-1519, 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 concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHIFF HARDIN LLP
PATENT DEPARTMENT
6600 SEARS TOWER
CHICAGO IL 60606-6473

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OFFICE OF PETITIONS

In re Application of	:	
Alan M. Letzt, Jacob P. Lefkowtz,	:	
Dianne F. Kaseman	:	DECISION ACCORDING
Application No. 10/997,625	:	STATUS UNDER § 1.47(a)
Filing Date: November 24, 2004	:	
Attorney Docket No. P03,0567-01	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47", filed July 20, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on November 24, 2004, without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed on December 29, 2004. This Notice set an extendable period for reply of two months. On May 2, 2005, applicants filed a petition under 37 CFR 1.47(a), made timely by obtaining a two month extension of time and including a Certificate of Mailing dated April 28, 2004. However, the petition was dismissed in a decision mailed on June 27, 2005. Rule 47 applicant did not submit proper declaration pursuant to 37 C.F.R. 1.63(c). The declaration did not contain the postal address of non-signing inventor Dianne F. Kaseman.

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 instant petition and the petition filed May 2, 2005, have been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed with the instant petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to the Office of Initial Patent Examination for completion of pre-examination processing.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIANNE KASEMAN
20500 TOP RIDGE DR
BOYDS MD 20841

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AUG 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Alan M. Letzt, Jacob P. Lefkowtz, :
Dianne F. Kaseman :
Application No. 10/997,625 :
Filed: November 24, 2004 : LETTER
Title: Healthcare Communications and Documentation Systems

Dear Ms. Kaseman:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent 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 Cliff Congo at (571)272-3207. 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).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Melvin A. Robinson
Schiff Hardin LLP
Patent Department
6600 Sears Tower
Chicago, IL 60606
phone: 312-258-5785

UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 31 2005

In re Application of	:	
SCHARBO ET AL.	:	
Serial Number: 10/977,662	:	PETITION UNDER
Filed: October 29, 20034	:	M.P.E.P.708.02
For: APPARATUS FOR COOKING MEAT	:	

This is in response to the petition filed October 29, 2004, requesting that the above-identified application be granted Special Status under Section 708.02 II of the MPEP and 37 CFR 1.102 (**fee required**).

The request for Special Status considered under Section 708.02 II has not been granted because a copy of each reference deemed most closely related to the subject matter encompassed by the claims has not been provided.

The petition is **DENIED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Bracewell & Patterson, LLP
IP Docketing
P.O. Box 61389
Houston, TX 77208-1389

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: James A. Patterson

Filing Date: Group Art Unit:

Serial No. Examiner:

For: System and Method for Separating Heavy Isotopes of Hydrogen Oxide from Water

10/997676

PETITION TO MAKE SPECIAL **PETITION GRANTED**

Commissioner of Patents and Trademarks
Washington, D.C. 20231

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

Sir:

Comes now the applicant, James A. Patterson, by and through his undersigned attorney, and requests the Commissioner of Patents and Trademarks to make the above-styled application special under the provisions of the Patent Office Rules on the grounds that the applicant is over sixty-five (65) years of age. Enclosed herewith is an Affidavit, properly executed by applicant, showing that his age is 82 years.

Under 37 CFR 1.102(c), "A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age...". Therefore, the undersigned attorney of record believes no fee is required to enter this Petition.

Respectfully submitted,

Charles J. Prescott
Reg. No. 30,316
2033 Wood Street, Suite 115
Sarasota, Florida 34237
(941) 957-4208

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Bradford Ruffin Daniels	: DECISION ON REQUEST FOR
Patent Number	: 7614046	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,685	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1300** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Bradford Ruffin Daniels
Patent Number : 7614046
Issue Date : 11/03/2009
Application No : 10/997,685
Filed : 11/24/2004

: 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 **1332** 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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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUL 2 0 2007

OFFICE OF PETITIONS

In re Application of Deuber et al. :
Application No. 10/997,701 : Decision on Petition
Filing Date: November 23, 2004 :
Attorney Docket No. HP0035 :

This is a decision on the petition under 37 CFR 1.137(b), filed February 5, 2007, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed June 14, 2006, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on September 15, 2006. A Notice of Abandonment was mailed on January 8, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee of $1,500. Petitioner has submitted a reply to the final Office action in the form of an amendment. 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.

Technology Center Art Unit 1752 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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WILLIAM H. HAMBY
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4417 LANCASTER PIKE
WILMINGTON DE 19805

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DEC 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
FISH, JR. et al.	:	DECISION
Application No. 10/997,719	:	ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. AD7066USNA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 4, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 6, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 7, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment; (2) the petition fee of $1500; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action mailed April 6, 2005 is accepted as having been unintentionally delayed.

In view of the general authorization contained in the Fee Transmittal (PTO/SB/17) to charge any additional fees, the petition fee of $1500 will be charged to the indicated deposit account.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4787.

The application matter is being forwarded to Technology Center Art Unit 1711.

Denise Pothier

Denise Pothier
Petitions Examiner
Office of Petitions

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4417 LANCASTER PIKE
WILMINGTON, DE 19805

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of
Alan Sanford Koralek
Application No.: 10/997,721
Filed: November 23, 2004
Attorney Docket No: KB4700USNA

ON PETITION

This is in response to the petition under 37 CFR 1.137(b) filed February 6, 2007.

The petition is **dismissed.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed November 18, 2005. The notice set a shortened statutory period for reply of three-months from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). No response was received within the allowable period. The application became abandoned on February 19, 2006. A Notice of Abandonment was mailed on June 16, 2006.

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 requirement of item (2) above.

Item (2) above has not been satisfied because the petition fee of $1500.00 did not accompany the petition. The petition is dismissed, accordingly. The renewed petition must be accompanied by the petition fee or an authorization to charge a deposit account for the petition fee.

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
www.uspto.gov

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON, DE 19805

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AUG 20 2007
OFFICE OF PETITIONS

In re Application of

Alan Sanford Koralek

Application No. 10/997,721

Filed: November 23, 2004

Attorney Docket No. KB700USNA

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 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 November 18, 2005, which set a shortened statutory period for reply of three (3) months. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the statutory period. Accordingly, the application became abandoned on February 19, 2006. A Notice of Abandonment was mailed on June 16, 2006. A petition under 37 CFR 1.137(b) was first filed on February 6, 2007, and dismissed by a decision mailed July 6, 2007.

The amendment filed July 23, 2007, is noted and made of record.

The application is being forwarded to Technology Center 1700, GAU 1774 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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AUG 1 8 2008

In re Application of	:	
John W. Bibber	:	
Application No. 10/997,722	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 926520-97687	:	FROM RECORD
	:	

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 16, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***file responsibility was transferred to the attorneys/agents associated with Customer Number 24628***, 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Husch Blackwell Sanders, LLP**
Welsh & Katz
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

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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WOMBLE CARLYLE SANDRIDGE & RICE, PPLC
CHEVRON PHILLIPS CHEMICAL COMPANY LP
P.O. BOX 7037
ATLANTA GA 30357-0037

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FEB 08 2006

OFFICE OF PETITIONS

In re Application of :
Elizabeth A. Benham, et al. :
Application No. 10/997,727 :
Filed: November 23, 2004 : ON PETITION
Attorney Docket No. C51757-0271.2 :

This is a decision on the Petition, filed December 5, 2005, requesting the above-identified application be accorded a filing date of November 24, 2004, rather than the presently accorded date of March 2, 2005.

Background

Application papers in the above-identified application were filed on November 24, 2004. On January 25, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, informing Applicant that drawing Figure 3, described in the specification, appeared to have been omitted from the application. On March 2, 2005, applicant submits, inter alia, a Response to Notice of Omitted Items, including a copy of Figure 3.

The Manual of Patent Examining Procedure ("MPEP"), § 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

The mailing of a 'Notice of Omitted Item(s)' will permit the applicant to either: (1) promptly establish prior receipt in the USPTO of the drawing(s) at issue (generally by way of date-stamped postcard receipt (MPEP 503)) (by filing a petition under

37 CFR 1.53(e); (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date such submission as the application filing date (by filing a petition under 37 CFR 1.182); or (3) "accept the application as deposited in the USPTO [and not] respond to the 'Notice of Omitted Item(s)'", thereby constructively accepting the application as deposited with this Office. Amendment of the specification is required . . . to cancel all references to the omitted drawing[s]. . . ." See MPEP 601.01(g).

While applicant supplies a copy of missing Figure 3, applicant does not assert that a drawing of Figure 3 was deposited on November 23, 2004, nor does applicant file a petition under 37 CFR 1.182 requesting the date of receipt of the missing figure as the filing date. Since the present petition requests the date of deposit under 37 CFR 1.10 as the filing date, it appears applicant is constructively accepting the application as deposited without Figure 3 as noted in option 3 above. Therefore, the drawing of Figure 3 will not be entered on petition.

The petition, as construed, is **GRANTED**.

The application is being forwarded to the Office of Initial Patent Examination for correction of the filing date to November 23, 2004, **without the drawing Figure 3 provided on March 2, 2005**, and for the mailing of a corrected filing receipt.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

WARREN SKLAR
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVE
19TH FL
CLEVELAND, OH 44115

In re Application of :
Adiel Abileah :
Application No. 10/997,728 :
Filed: November 23, 2004 :
Attorney Docket No. FERPP0108US :

DECISION GRANTING PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed April 12, 2006 and supplemented on April 13, 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 22, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of October 19, 2006 accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 2871 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
10/997,728	11/23/2004	Adiel Abileah	FERPP0108US

CONFIRMATION NO. 7657

45253
WARREN SKLAR
RENNER, OTTO, BOISSELLE & SKLAR, LLP
1621 EUCLID AVE
19TH FL
CLEVELAND, OH 44115

Date Mailed: 07/07/2006

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 10/19/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070124

DATE : January 24, 2007

TO SPE OF : ART UNIT 3662

SUBJECT : Request for Certificate of Correction on Patent No.: 7,113,124

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:

Thomas H. Tarcza

SPE: Thomas H. Tarcza **Art Unit** 3662

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OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Patent No. 7,625,716	: DECISION ON REQUEST
Stephen R. Hann	: FOR
Issue Date: December 1, 2009	: RECONSIDERATION OF
Application No. 10/997,763	: PATENT TERM ADJUSTMENT
Filed: November 24, 2004	: and
Atty Docket No. **VBLT:049US/10415293**	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 25, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand, one hundred and thirty-one (1,131) 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 eleven hundred thirty-one days is **GRANTED**.

The Office acknowledges receipt of $200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The 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, patentee 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 § 1.136.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand, one hundred and thirty-one (1,131) days**

Telephone inquiries specific to this matter should be directed to the undersigned, at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,625,716 B2

DATED : Dec. 1, 2009

INVENTOR(S) : Hann

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 (892) days

Delete the phrase "by 892 days" and insert – by 1131 days--

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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THE WEBB LAW FIRM, P.C.
700 KOPPERS BUILDING
436 SEVENTH AVENUE
PITTSBURGH, PA 15219

Mail Date: 04/21/2010

Applicant	: Tuomas Sandholm	: DECISION ON REQUEST FOR
Patent Number	: 7577589	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,765	: OF WYETH
Filed	: 11/24/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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FENWICK & WEST
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

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JUN 15 2006

OFFICE OF PETITIONS

In re Application of	:	
Ronald Keen et al	:	
Application No. 10/997,766	:	DECISION ON PETITION
Filed: November 23, 2004	:	TO WITHDRAW
Attorney Docket No. 61133-09547	:	FROM RECORD
	:	

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 4, 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 Brian M. Hoffman on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named 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 inventor at the first copies address below until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 3626.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: RONALD KEEN
6659 DORSET STREET
SHELBURN, VT 05482

ANDRUS SCEALES STARKE & SAWALL
C/O JOSEPH D. KUBORN
100 EAST WISCONSIN AVE, SUITE 1100
MILWAUKEE, WI 53202

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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Douglas Reed Beck	: DECISION ON REQUEST FOR
Patent Number	: 7627898	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,768	: 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 **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of	:	
Sarkar et al.	:	DECISION ON PETITION
Application No. 10/997,787	:	UNDER 37 CFR 1.78(a)(3)
Filed: 23 November, 2004	:	
Atty Docket No. GOWLVAN1.003C1	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed 18 August, 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 concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the

prior-filed nonprovisional application is submitted after expiration of the period specified 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 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(s) 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(s). In order for the instant 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 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1745 for appropriate action on the amendment filed 18 August, 2005, including consideration by the examiner of applicant's

entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional application.

Frances Hicks

Frances M. Hicks
Lead Paralegal
Office of Petitions

Encl: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Kawamura and Nuiya	:	DECISION ACCORDING STATUS
Application No. 10/997,793	:	UNDER 37 CFR 1.47(a)
Filed: November 24, 2004	:	
For: PRESSURE-REDUCING VALVE FOR	:	
HIGH-PRESSURE GAS CYLINDERS	:	

This is in response to the petition under 37 CFR 1.47(a), filed March 27, 2006. Petitioners obtained an extension of time for response within the fifth month. Thus, the petition is filed timely.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioners showed that the non-signing inventor constructively refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, petitioners established that they mailed a copy of the application papers to the last known address of the non-signing inventor; however, he did not respond to the request to sign the declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to the Technology Center Art Unit 3683 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Yoshio Nuiya
2936-183 Kamito Matsuri-cho
Utsunomiya City
Tochigi, 1000081
JAPAN **AIR MAIL**

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SEP 0 6 2006
OFFICE OF PETITIONS

In re Application of	:	
Kawamura and Nuiya	:	
Application No. 10/997,793	:	LETTER
Filed: November 24, 2004	:	
For: PRESSURE-REDUCING VALVE FOR	:	
HIGH-PRESSURE GAS CYLINDERS	:	

Dear Mr. Nuiya:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor. As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO, CA 94306

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MAR 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Michael Prichard, et al.	:	
Application No. 10/997,794	:	DECISION ON PETITION
Filed: November 23, 2004	:	
Attorney Docket No. OQO-101	:	

This is a decision in the response to a petition filed February 28, 2005, requesting that the above-identified application be accorded a filing date of November 23, 2004.

A review of the record discloses that USPTO records have been updated to show the correct filing date pursuant to 37 CFR 1.10. A corrected Official Filing Receipt was mailed on March 14, 2005.

Accordingly, the present petition is dismissed as moot.

Telephone inquiries concerning this matter may be directed to Retta Williams at (571) 272-3229.

Marianne E. Jenkins

Marianne E. Jenkins
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 23, 2008

TO SPE OF : ART UNIT **1797**

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/997796 Patent No.: 7393450 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ **SPE** _____ **Art Unit**

Newsome, Lamonte

From: Drodge, Joseph
Sent: Wednesday, July 23, 2008 7:01 PM
To: Newsome, Lamonte
Subject: certificateofcorrection10997796.doc; approve all changes (all changes apply)
Attachments: certificateofcorrection10997796.doc

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 21 2009

OFFICE OF PETITIONS

In re Patent No. 7,422,783
Issued: September 9, 2008
Application No. 10,997,802
Filed: November 24, 2004
Attorney Docket No. 05918-0163001/
VGCP No. 8020

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed November 7, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from forty-seven (47) days to two hundred twenty-five (225) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 9, 2008, the above-identified application matured into US Patent No. 7,422,783 with a patent term adjustment of 47 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 225 days, which is the sum of 178 days of patent term adjustment due to exceeding three year pendency and 217 days due to USPTO delay in prosecution."

The 178-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on November 24, 2004, and the patent having been issued on September 9, 2008, three years and 178 days later. Patentees assert that in addition to this 178-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 217 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 170 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 (178 days) and the period of Examination Delay (217 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 395 days, which is the sum of the period of Three Year Delay (178 days) and the period of Examination Delay (217 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 225 days (178 + 217 reduced by 0 overlap – 170(applicant delay)).

The Office agrees that as of the issuance of the patent on September 9, 2008, the application was pending three years and 178 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 217 days is correct. At issue is whether patentees should accrue 178 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 217 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 178 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 20, 2004 to May 20, 2008. During that time, the issuance of the patent was delayed by 217 days, not 217 + 178 days. The Office took 14 months and 178 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 217 days of Office delay and the 170 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 178 days after its filing date. The Office did not delay 217 days and then an additional 178 days. Accordingly, 47 days of patent term adjustment (not 217 and 178 days) was properly entered since the period of delay of 178 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 217 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 217 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 178 days over three years.

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.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In 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

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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OFFICE OF PETITIONS

In re Patent No. 7,422,783	: DECISION ON REQUEST
Issued: September 9, 2008	: FOR RECONSIDERATION
Application No. 10/997,802	: OF PATENT TERM ADJUSTMENT
Filed: November 24, 2004	: AND
Attorney Docket No. **05918-0163001**	: NOTICE OF INTENT TO ISSUE
/VGCP No. 8	: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on July 16, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 47 days to 225 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

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 two hundred twenty-four (224) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 24, 2007 and ends on May 19, 2008, the day before the RCE was filed, the B delay is 177 (not 178) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 224, not 225 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred twenty-four (224)** 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
forPatent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,422,783 B2

DATED : September 9, 2009

INVENTOR(S) : Heidi S. Tremblay

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 (47) days

Delete the phrase "by 47 days" and insert – by 224 days--

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

BECK AND TYSVER P.L.L.C.
2900 THOMAS AVENUE SOUTH
SUITE 100
MINNEAPOLIS MN 55416

In re Application of	:	
ROUE, CHAD C.	:	
Application No.: 10/997804	:	DECISION ON
Filing or 371(c) Date: November 24, 2004	:	PETITION
Attorney Docket Number: **3849**	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed May 7, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance, mailed December 30, 2008.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1500.

Kendrick Spruill
Application Assistance Unit
Office of Data Management

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CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON MD 21286

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OFFICE OF PETITIONS

In re Application of	:	
Leasure, et al.	:	
Application No. 10/997,806	:	DECISION
Filed: 24 October, 2004	:	
Attorney Docket No. JK01400A	:	

This is a decision on the petition filed on 10 October, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been 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.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 6 March, 2007, with reply due absent extension of time on or before 6 June, 2007.

The application went abandoned by operation of law after midnight 6 June, 2007;

The Office mailed a Notice of Abandonment on 27 September, 2007.

On 10 October, 2007, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment, and made the statement of unintentional delay. (It is noted that Petitioner filed a terminal disclaimer with fee, but it appears that a disclaimer was neither required by the Examiner nor under the regulations (the instant application was not filed before 8 June, 1995.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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.[2],[3]

---

[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). See specifically, the regulations at 37 C.F.R. §10.18.

[2] 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).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2838 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center/AU OPAP where that change of status must be effected—that does not occur in the Office of Petitions.

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[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 7,2007

TO SPE OF : ART UNIT 2800(2153)

SUBJECT : Request for Certificate of Correction for Appl. No./10/997816 patent no.7237967

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: _____

SPE

2851

Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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CAMPBELL NELSON WHIPPS, LLC
408 ST. PETER STREET
SUITE 240
ST. PAUL, MN 55102

Mail Date: 04/21/2010

Applicant	: Barton Holmquist	: DECISION ON REQUEST FOR
Patent Number	: 7592432	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/997,822	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/24/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1126** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
10/997,825	11/23/2004	2634	1810	RM. GPGc	7	54	8

CONFIRMATION NO. 1304

UPDATED FILING RECEIPT

OC000000015695728

Benita J. Rohm
12 Rathbone Place
Grosse Pointe, MI 48230

Date Mailed: 04/08/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Harold George Pires, Easton, PA;

Power of Attorney:

Raphael Monsanto--28448
Benita Rohm--28664

Domestic Priority data as claimed by applicant

This application is a CIP of PCT/US04/28464 08/31/2004
and is a CIP of 10/723,604 11/25/2003
which claims benefit of 60/499,191 09/02/2003

Foreign Applications

If Required, Foreign Filing License Granted: 01/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/997,825

Projected Publication Date: 07/21/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

** SMALL ENTITY **

Title

Diaper wetness annunciator system

Preliminary Class

340

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

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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JAN 0 7 2008

OFFICE OF PETITIONS

In re Application of	:
Anderson et al.	:
Application No. 10/997,838	: DECISION ON PETITION
Filed: November 24, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 030592U5	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 13, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/527,996, filed December 8, 2003.

The petition is **DISMISSED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed on November 24, 2004, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/527,996, which was filed on December 8, 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. 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)(6) can be granted, a substitute amendment[1] deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(6), is required.

As authorized, the $1410.00 fee required by 37 CFR 1.78(a)(6)(ii) will be charged to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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[1] *Note* 37 CFR 1.121

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SAN DIEGO CA 92121

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MAR 11 2008

OFFICE OF PETITIONS

In re Application of	:
Anderson et al.	:
Application No. 10/997,838	: DECISION GRANTING PETITION
Filed: November 24, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 030592U5	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed February 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/527,996, filed December 8, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/527,996, which was filed on December 8, 2003, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 2616 for appropriate action on the amendment submitted February 7, 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/527,996.

Liana Walsh
Petitions Examiner
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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/997,838	11/24/2004	2616	1720	030592U5	40	8

CONFIRMATION NO. 9817

CORRECTED FILING RECEIPT

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

OC000000028707693

Date Mailed: 03/10/2008

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)

Jon James Anderson, Boulder, CO;
Brian Steele, Lafayette, CO;
George Alan Wiley, San Diego, CA;
Shashank Shekhar, Erie, CO;

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/525,270 11/25/2003
and claims benefit of 60/527,996 12/08/2003

Foreign Applications

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 **US 10/997,838**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

High data rate interface with improved link synchronization

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 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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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

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OFFICE OF PETITIONS

In re Application of	:	
Jerry Hausner et al	:	
Application No. 10/997,845	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 30243UT23	:	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 Jerry Hausner 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 3662 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 18 2010

OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND
MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,608,340	:	DECISION ON REQUEST
Tsuji, et al.	:	FOR
Issue Date: October 27, 2009	:	RECONSIDERATION OF
Application No. 10/997,867	:	PATENT TERM ADJUSTMENT
Filed: November 29, 2004	:	and
Atty Docket No.262508US0	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 24, 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 hundred and thirty (130) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred and twenty-nine (129) days is **GRANTED to the extent indicated herein.**

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on November 30, 2007, and ends on January 21, 2008, the day before the RCE was filed, and is 53 (not 54) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 129 days, not 130 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of 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 hundred and twenty-nine (129)** days.

Telephone inquiries specific to this matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,608,340 B2

DATED : Oct. 27, 2009

INVENTOR(S) : Tsuji, 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 (76) days

Delete the phrase "by 76 days" and insert – by 129 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

MAILED

FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Koichiro Tanaka et al	:	
Application No. 10/997,868	:	DECISION GRANTING PETITION
Filed: November 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7445	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 29, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 24, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2828 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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CONNOLLY BOVE LODGE
& HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

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OFFICE OF PETITIONS

In re Application of	:	
Omura, et al.	:	
Application No. 10/997,869	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 11987*18	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 10, 2006.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on May 17, 2006, after it was believed that no response was received to the non-final Office action mailed February 16, 2006. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A review of the application file reveals that an amendment responsive to the non-final Office action was filed on July 17, 2006, along with a request for an extension of time within the second month. Notwithstanding, a Notice of Abandonment was mailed onSeptember 15, 2006, indicating that a reply to the non-final Office action was not received.

The instant petition maintains that the response to non-final Office action was timely filed. The abandonment is being withdrawn on the basis of the undersigned review of the application file and discovery of amendment filed July 17, 2006, that is responsive to the non-final Office action.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was received prior to expiration of the period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to Technology Center 1600, GAU 1623 for further processing, including processing of the amendment filed July 17, 2006.

Questions regarding this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

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SEP 11 2008

In re Application of :
Koichi Tahira et al. :
Application No. 10/997,905 : ON PETITION
Filed: November 29, 2004 :
Attorney Docket No.: **SON-3146** :

This is a decision on the petition filed May 22, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition under 37 CFR 1.181 is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181," or, as explained in more detail below, "...under 37 CFR 1.137(a)" or (b). This is not a final agency decision.

Petitioner asserts that the while the Notice of Allowability mailed March 6, 2006 required Corrected Drawings, including the changes required by the "Examiner's Amendment/Comment or in the Office action of Paper No./Mail Date 02/06", petitioner argues that the Examiner's Amendment found in paragraph 1 of Notice of Allowability failed to include any reference to the drawings..".

No response to the requirements set out in the Notice of Allowability mailed March 6, 2006 was timely filed thus, the application became abandoned June 7, 2006. Accordingly, a Notice of Abandonment was mailed July 13, 2006.

Unfortunately however, the requirement for responding to communications mailed from the USPTO must be in writing as is required by 37 CFR 1.2. Petitioners are advised that in the absence of the Notice of Allowability being withdrawn or a Supplemental Notice of Allowability having been mailed by the USPTO, then by law a response was required. The failure to file a response causes the application to become abandoned, even if the applicant believed the communication mailed from the USPTO was sent in error.

There is no evidence that the applicants filed a written response or query as is required by 37 CFR 1.2. Therefore, applicants are not afforded an opportunity then to withhold a

response based on a perceived error on the part of the USPTO. If applicants perceived an error with the Notice of Allowability, applicants had an affirmative obligation to file a response that no such response should have been required.

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON DC 20036

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OFFICE OF PETITIONS

In re Application of :
Koichi Tahira et al. :
Application No. 10/997,905 :
Filed: November 29, 2004 :
Attorney Docket No.: **SON-3146** :

ON PETITION

This is a decision on the petition filed September 25, 2008, under 37 CFR 1.137(b)[1], to revive the above-identified application.

The petition is **GRANTED**.

The Notice of Allowability mailed March 6, 2006 required Corrected Drawings and set a period of three months for reply. No response to the requirements set out in the Notice of Allowability mailed March 6, 2006 was timely filed thus, the application became abandoned June 7, 2006. Accordingly, a Notice of Abandonment was mailed July 13, 2006.

All other requirements under 37 CFR 1.137(b) having been met, this matter is being referred to the Publishing Division.

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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[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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MAY 17 2005

MANELLI DENISON & SELTER
2000 M STREET NW SUITE 700
WASHINGTON, DC 20036-3307

In re application of Myron D. Tupper Application No. 10/997,912 Filed: November 29, 2004 For: MODULATED OVERPRESSURE VALVE STRUCTURE FOR FLUID OPERATED DEVICE	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on January 27, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Tupper 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
(703) 308-0866

KJD/slb: 04/05/05

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OFFICE OF PETITIONS

ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

In re Patent No. 7,369,074	:	
Issue Date: May 6, 2008	:	
Application No. 10/997,918	:	DECISION ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. **0756-7446**	:	

This is a decision on the petition filed, July 21, 2008 and resubmitted May 27, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page the above-identified patent by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's names are both "Semiconductor Energy Laboratory Co., LT." and "Sharp Kabushiki Kaisha, Osaka-shi (JP)." Petitioner further states that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate 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 was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Semiconductor Energy Laboratory CO., LTD." And "Sharp Kabushiki Kaisha, Osaka-shi (JP)" are the assignees of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Chris Bottorff
Petitions Examiner
Office of Petitions

Attorney Docket No. 0756-7446

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:	)	Group Art Unit: 2819
Kazuhiko MIYATA et al.	)	Examiner: Peguy Jean Pierre
Patent No.: 7,369,074	)	Confirmation No.: 1292
Dated: May 6, 2008	)	
Serial No. 10/997,918	)	
Filed: November 29, 2004	)	
For: D/A CONVERTER FOR A DIGITAL	)	
SIGNAL AFTER NON-LINEAR A/D	)	
CONVERSION, AUDIO SIGNAL	)	
PROCESSING CIRCUIT AND LIQUID	)	
CRYSTAL DISPLAY DEVICE	)	
INCLUDING THE SAME	)	

REQUEST FOR CORRECTION OF ASSIGNEE UNDER 37 CFR § 3.81(b) AND FOR CERTIFICATE OF CORRECTION UNDER 37 CFR § 1.323

ATTN: Certificate of Correction Branch
Honorable Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

The patentee respectfully requests correction of the Assignee name after payment of the issue fee, pursuant to 37 CFR 3.81(b) and further requests a Certificate of Correction under 37 CFR 1.323 be granted in the above-identified patent.

The present application and resulting patent are assigned to Semiconductor Energy Laboratory Co., Ltd. of 398, Hase, Atsugi-shi, Kanagawa-ken, 243-0036 Japan and Sharp Kabushiki Kaisha of 22-22, Nagaike-cho, Abeno-ku, Osaka-shi, Osaka 545-0013 Japan. This information is set forth by the Applicant, for example, in the *Assignment* and *Application Data Sheet* filed with the present application on November

11/04/2009 CKHLOK 00000004 7369074
01 FC:1464 130.00 OP

Adjustment date: 11/04/2009 CKHLOK
05/27/2009 INTERSW 00010305 10997918
01 FC:1464 -130.00 OP

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

In re Application of:
NAGASAWA, MASATO
Application Serial No.: 10/997,967
Filed: November 29, 2004
For: **SPECIALLY FORMATTED OPTICAL DISK AND METHOD OF PLAYBACK**

DECISION ON PETITION

This is a decision on the petition, filed on June 02, 2006 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.

This application is a divisional of SN 10/431,543 filed May 8, 2003
which is a divisional of SN 09/847,307 filed May 3, 2001
which is a divisional of SN 09/715,163 filed November 20, 2000
which is a divisional of SN 09/108,798 filed July 1, 1998
which is a divisional of SN 08/492,997 filed June 21, 1995.

MPEP 708.01 [R-2] List of Special Cases, states in part:
(I) Applications pending more than 5 years, <u>including those which, by relation to a prior United States application, have an effective pendency of more than 5 years</u>. See MPEP § 707.02. [emphasis added]

In accordance with MPEP section 708.01(I), applications pending over 5 years, including those which by relation to a prior United States application, should be considered special. This application by virtue of its prolonged pendency is considered special in accordance with PTO policy.

Accordingly, the petition is **<u>Granted</u>**.

The examiner will be notified that this application should be considered as "special" and appropriate for expedited action.

Michael Horabik
Special Program Examiner
Technology Center 2600 Communications

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Ronald D. Trice
PMB 138
2101 Crystal Plaza Arcade
Arlington, VA 22202-460

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OFFICE OF PETITIONS

In re Application of	:	
Stephen M. Kelly et al.	:	
Application No. 10/997,993	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. ZLX-HUL-005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 2006.

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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COMMISSIONER FOR PATENTS
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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN, VA 22102

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Rak et al. :
Application No. 10/998,017 :
Filed: November 29, 2004 :
Attorney Docket No. :
53262-20012.10 :

This is a decision in response to the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Corrected Application Papers (hereinafter "Notice"), mailed January 31, 2005. The Notice set a two (2) month period for reply. No response having been received, the application became abandoned on April 1, 2005. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

With the instant petition, Petitioner has satisfied the requirements of a grantable petition under 37 CFR 1.137(b). The reply to the January 31, 2005 Notice is filed with the instant petition. Accordingly, the petition is granted.

This application is being forwarded to the Office of Initial Patent Examination for continued processing in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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In re Application of	:	
Rak et al.	:	
Application No. 10/998,017	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. 532622001210	:	FROM RECORD
	:	

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 23, 2005.

The request is **MOOT**.

A review of the file record indicates that the power of attorney to MORRISON & FOERSTER LLP has been revoked by the assignee of the patent application on December 15, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the correspondence address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4914.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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CHAN LAW GROUP LC
1055 W. 7TH STREET, SUITE 1880
LOS ANGELES, CA 90017

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MAR 3 1 2008

In re Application of	:	
HU, Xun	:	
Application No. 10/998,025	:	DECISION ON PETITION
Filed: November 24, 2004	:	TO WITHDRAW
Attorney Docket No. **1212.701**	:	FROM RECORD
	:	

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 5, 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 Lisa a Karczewski on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the sole copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed August 17, 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: **HU XUN**
DONG HE JIA YUAN, ZHI DA FANG BO
BUILDING 1, ROOM 503
HANGZHOU, P.R. CHINA 310009

cc: **HAIBIN WANG**
483 LOS ALTOS AVENUE
ARCADIA, CA 91007

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United States Patent and Trademark Office
P.O. Box 1450
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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Toshikazu Houmura, et al.	:	
Application No. 10/998,036	:	DECISION GRANTING PETITION
Filed: November 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1720.1011	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 29, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 1, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2614 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

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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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United States Patent and Trademark Office
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HANSEN HUANG TECHNOLOGY LAW GROUP, LLP
1725 EYE STREET, NW
SUITE 300
WASHINGTON DC 20006

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APR 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Byrd et al.	:	
Application No. 10/998,039	:	DECISION ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 1002-022	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525.00 extension of time fee submitted with the petition on April 1, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's credit card.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 3737 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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ROBERT W. J. USHER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK NY 10010

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JUN 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Swallow :
Application No. 10/998,186 :
Filed: November 26, 2004 :
Attorney Docket No. 302/1/057 // 1565 :
For: LONE WORKER MONITOR

This is a decision on the petition under 37 CFR 1.137(b), filed December 20, 2005, to revive the above-identified application. In addition, this decision will address the petition to withdraw the holding of abandonment, filed December 1, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition to withdraw the holding of abandonment is **DISMISSED AS MOOT**.

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed January 31, 2005, which set a two month shortened statutory period to submit filing fees, claim fees, an executed oath/declaration, and a surcharge. On March 28, 2005, applicant submitted filing fees, an executed declaration, the surcharge, and a partial payment of claim fees. The remainder of the claim fees not being received in the Office, this application became abandoned on April 1, 2005. A Notice of Abandonment was mailed on November 18, 2005.

Applicant has submitted a proper reply to the January 31, 2005 Notice in the form of the remainder of the claim fees due, an acceptable statement of the unintentional nature of the delay in responding to the January 31, 2005 Notice, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The Revocation and New Power of Attorney, filed on December 20, 2005 is not acceptable because it is not clear who signed the document. The signature is illegible and there is no name or title printed on the document. A courtesy copy of this decision is being mailed to practitioner.

The petition under 37 CFR 1.137(b) is granted. The petition under 37 CFR 1.181 is dismissed as moot. It is noted that in the Rule 137(b) petition, practitioner requested that the Rule 181 petition be withdrawn.

After the mailing of this decision, the file will be forwarded to Technology Center 2614 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RICHARD M. GOLDBERG, ESQ.
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

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ROBERT W. J. USHER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK NY 10010

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JUL 0 5 2006

OFFICE OF PETITIONS

In re Application of :
Swallow :
Application No. 10/998,186 :
Filed: November 26, 2004 :
Attorney Docket No. 302/1/057 // 1565 :
For: LONE WORKER MONITOR

ON PETITION

This is a corrected decision on the petition under 37 CFR 1.137(b), filed December 20, 2005, to revive the above-identified application. In addition, this decision will address the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed December 1, 2005.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition to under 37 CFR 1.181 is **DISMISSED AS MOOT**.

This application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application mailed January 31, 2005, which set a two month shortened statutory period to submit filing fees, claim fees, an executed oath/declaration, and a surcharge. On March 28, 2005, applicant submitted filing fees, an executed declaration, the surcharge, and a partial payment of claim fees. The remainder of the claim fees not being received in the Office, this application became abandoned on April 1, 2005. A Notice of Abandonment was mailed on November 18, 2005.

On February 9, 2006, the Office of Initial Patent Examination mailed a "Withdrawal of Previously Sent Notice" that withdrew the November 18, 2005 Notice of Abandonment. On February 9, 2006, the Office of Initial Patent Examination refunded the $750.00 petition fee and the $825.00 excess claim fee that were submitted on December 20, 2005 with the petition to revive. The February 9, 2006 communication was sent in error and is hereby **vacated**. The refunded fees are required. Deposit account no. 07-1524 will be charged the $750.00 petition fee and the $825.00 excess claim fee.

Applicant has submitted a proper reply to the January 31, 2005 Notice in the form of the remainder of the claim fees due, an acceptable statement of the unintentional nature of the delay in responding to the January 31, 2005 Notice, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The Revocation and New Power of Attorney, filed on December 20, 2005 is not acceptable because it is not clear who signed the document. The signature is illegible and there is no name or title printed on the document. A courtesy copy of this decision is being mailed to practitioner.

The petition under 37 CFR 1.137(b) is granted. The petition under 37 CFR 1.181 is dismissed as moot. It is noted that in the Rule 137(b) petition, practitioner requested that the Rule 181 petition be withdrawn.

After the mailing of this decision, the file will be forwarded to Technology Center 2614 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: RICHARD M. GOLDBERG, ESQ.
25 EAST SALEM STREET
SUITE 419
HACKENSACK, NJ 07601

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OFFICE OF PETITIONS

TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

In re Application of	:	
HADLEY, J. Rock et al.	:	
Application No. 10/998,189	:	DECISION ON PETITION
Filed: November 26, 2004	:	TO WITHDRAW
Attorney Docket No. **0274-6222.1US**	:	FROM RECORD

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 09, 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 Allen C. Turner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **J. ROCK HADLEY**
115 WEST 780 SOUTH
CENTERVILLE, UT 84014

cc: **VAUGHN NORTH**
THORPE NORTH & WESTERN
8180 SOUTH 700 EAST
SUITE 350
SANDY, UT 84070

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/998,189	11/26/2004	J. Rock Hadley	0274-6222.1US

CONFIRMATION NO. 2486

OC000000025457797

24247
TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

Date Mailed: 08/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/09/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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DALLAS TX 75201

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Overton L. Parish	:	
Application No. 10/998,199	:	DECISION ON PETITION
Filed: November 26, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 27889-00073USPT	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 27, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The reference to add the above-noted, prior-filed applications in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. 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).

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.

Thurman Page
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Overton L. PARISH et al.	:	
Application No. 10/998,199	:	DECISION ON PETITION
Filed: November 26, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 27889-00073USPT	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed July 10, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled

to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. 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 3744 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.

Thurman K. Page

Thurman Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
10/998,199	11/26/2004	3744	550	27889-00073USPT	30	3

CONFIRMATION NO. 2451

CORRECTED FILING RECEIPT

61060
WINSTEAD PC
P.O. BOX 50784
DALLAS, TX 75201

OC000000037193999

Date Mailed: 08/03/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Overton L. Parish, Frisco, TX;
Tony Quisenberry, Highland Village, TX;
Clark R. Havis, Roundrock, TX;

Power of Attorney: The patent practitioners associated with Customer Number 23932

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/525,242 11/25/2003
and is a CIP of 10/305,662 11/26/2002 PAT 6,834,712
which claims benefit of 60/334,235 11/27/2001

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/998,199**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

GEOMETRICALLY REORIENTED LOW-PROFILE PHASE PLANE HEAT PIPES

Preliminary Class

165

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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THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

Mail Date: 04/21/2010

Applicant	: Keith Buckle	: DECISION ON REQUEST FOR
Patent Number	: 7582125	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1083** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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OFFICE OF PETITIONS

In re Application of	:	
Frenkil, et al.	:	
Application No. 10/998,204	:	DECISION ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. M-15503 US	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of priority to application no. 10/739,659.

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 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 amendment submitted concurrently with the instant petition as drafted is unacceptable, and therefore is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition, and as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject matter must be contained in a separate paper since different matters may be considered by different branches of the Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3) (no additional fee required), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By fax: (571)273-8300
Attn: Office of Petitions

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MACPHERSON KWOK CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

In re Application of	:	
Frenkil, et al.	:	
Application No. 10/998,204	:	DECISION ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. M-15503 US	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 17, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365 (c) for the benefit of priority to application no. 10/739,659.

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 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.

Applicants filed a petition under 37 CFR 1.78(a)(3) on October 31, 2007. However, the petition was dismissed in a decision mailed on August 18, 2008. The petition was dismissed because the amendment was not submitted as a separate paper. Rather, it was physically part of the petition, and therefore did not comply with 37 CFR 1.121, 1.52, or 1.4(c).

The instant renewed petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed application has been included in an amendment to the first sentence of the specification; (2) the surcharge fee required by 37 CFR 1.17(t) was previously submitted on October 31, 2007; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Telephone inquiries concerning this matter should be directed to Petitions Attorney Cliff Congo at (571)272-3207.

Anthony Knight
Supervisor
Office of Petitions

Enc: 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
10/998,204	11/26/2004	2825	739	M-15503 US	51	2

CONFIRMATION NO. 9934

CORRECTED FILING RECEIPT

32605
Haynes and Boone, LLP
IP Section
2323 Victory Avenue
SUITE 700
Dallas, TX 75219

OC000000035251609

Date Mailed: 03/31/2009

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)

Gerald L. Frenkil, Concord, MA;
Srinivasan Venkatraman, Acton, MA;

Power of Attorney: The patent practitioners associated with Customer Number 32605

Domestic Priority data as claimed by applicant

This application is a CIP of 10/739,659 12/17/2003 PAT 7,117,457

Foreign Applications

If Required, Foreign Filing License Granted: 01/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 10/998,204**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Design method and architecture for power gate switch placement

Preliminary Class

716

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/998,229	11/16/2004	2814	1310	ASMMC.033DV1	11	44	4

CONFIRMATION NO. 9674

CORRECTED FILING RECEIPT

OC000000016090747

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 05/23/2005

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 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)

Ki-Bum Kim, Seongnam-Shi, KOREA, REPUBLIC OF;
Pekka J. Soininen, Espoo, FINLAND;
Ivo Raaijmakers, Bilthoven, NETHERLANDS;

Power of Attorney: The patent practitioners associated with Customer Number **20995**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/007,304 12/05/2001

Foreign Applications

REPUBLIC OF KOREA 10-2000-0074025 12/06/2000

If Required, Foreign Filing License Granted: 01/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/998,229

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Copper interconnect structure having stuffed diffusion barrier

Preliminary Class

438

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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ALISON J. BALDWIN
MCDONNELL BOEHNEN HULBERT & BERGHOFF
32ND FLOOR
300 S. WACKER DRIVE
CHICAGO, IL 60606

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NOV 1 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Fuerstenberg et al.	:	
Application No. 10/998,232	:	ON PETITION
Filed: November 5, 2004	:	
Attorney Docket No. 03,783-B	:	

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**.

The specification submitted with the initial filing of the instant application contained a priority listing, which included Provisional Application No. 60/518,112, filed November 6, 2003, as well as: Provisional Applications Nos. 60/520,811, filed November 17, 2003; 60/547,720, filed February 25, 2004; and 60/559,998, filed April 5, 2004. The Office has already noted the claim for priority of the prior-filed applications, as shown by their inclusion on the filing receipt.

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 examination in due course, including 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.

Lana Chase
Petitions Examiner
Office of Petitions

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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.
10/998,237	11/27/2004	Hiroshi Inoue	JP920030250US1	9637

27431 7590 11/06/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER
AN, MENG AI T

ART UNIT	PAPER NUMBER
2195	

MAIL DATE	DELIVERY MODE
11/06/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: INOUE et al.
Application No. 10/998,237
Filed: November 27,2004
For: RESOURCE RESERVATION SYSTEM AND RESOURCE RESERVATION METHOD AND RECORDING MEDIUM STORING PROGRAM FOR EXECUTING THE METHOD

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 19, 2008, to make the above-identified application special.

The petition is **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 are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

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ALEXANDRIA, VA 22313-1450
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MAILED

JAN 29 2007

Technology Center 2100

WORKMAN NYDEGGER/MICROSOFT
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

In re Application of:
DEEN et al.
Application No. 10/998,240
Filed: November 23, 2004
For: ROUTING CLIENT REQUEST TO BACK-END SERVERS

DECISION SUA SPONTE WITHDRAWING OFFICE ACTIONS

This is a decision, *sua sponte*, withdrawing the holding of abandonment of the above-identified application.

This application is held abandoned for failure to timely pay the required issue fee within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85). A Notice of Abandonment was mailed on April 13, 2006.

Following are the relevant facts: On November 03, 2005, the Office mailed a Notice of Allowance and Issue Fee Due. On January 19, 2006, examiner conducted a telephone interview with the applicant's representative (Mr. Rick Nydegger) to inform applicant that the Notice of Allowance dated of November 3, 2005 has been withdrawn. On January 27, 2006, the Office mailed the interview summary record (PTOL-413) and a letter of withdrawal from issue. On February 6, 2006, a supplemental Notice of Allowability was mailed but a new Notice of Allowance (PTOL-85) was not mailed nor attached to the supplemental Notice of Allowability.

The Office concludes that the Notice of abandonment was issued erroneously. Although no proper petition or request to withdraw the holding of abandonment in this application has been filed, the Notice of Abandonment is hereby **WITHDRAWN**.

The application file is being forwarded to the Technology Center technical support staff to mail a new Notice of Allowance and Issue Fee Due (PTOL-85).

Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security

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P.O. Box 1450
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JOHN P. SUTTON
2421 PIERCE STREET
SAN FRANCISCO, CA 94115-1131

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FEB 26 2008

In re Application of	:	
Gordon G. GROW	:	
Application No. 10/998,275	:	ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. GROW	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2007 above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 9, 2007 shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 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, 2, and 3.

With respect to item 1: Although petitioner filed the required amendment, it fails to comply with 37 CFR 1.121(1)(c)(1).

37 CFR 1.121(1)(c)(1) states:

All of the claims presented in claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g, Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

With respect to item 2: A review of the record shows that the petition in the above-identified application was accompanied by a payment of $750 for the petition to revive under the unintentional standards. As of September 30, 2007 a new fee schedule was posted and new fees should have been applied to any petition filed after the date listed above. The instant petition lacks a complete fee payment and an additional $20 is due to complete the required petition fee. No consideration on the merits can be given until the required fee deficiency is remitted.

With respect to item 3: The instant petition fails to contain the required statement of unintentional delay. 37 CFR 1.37(b) states that the entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [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 (II)(C) and (D)).]

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the Diane Goodwyn at (571) 272-6735.

April M. Wise
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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JOHN P. SUTTON
2421 PIERCE STREET
SAN FRANCISCO, CA 94115-1131

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JUL 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Gordon G. GROW	:	
Application No. 10/998,275	:	DECISION ON PETITION
Filed: November 26, 2004	:	
Attorney Docket No. GROW	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 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, March 9, 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 June 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 $770; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3611 for appropriate action by the Examiner in the normal course of business on the reply received March 18, 2008.

Thurman Page
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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Daisuke Sasaki	: DECISION ON REQUEST FOR
Patent Number	: 7590670	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,284	: 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 **411** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Daisuke Sasaki
Patent Number : 7590670
Issue Date : 09/15/2009
Application No : 10/998,284
Filed : 11/23/2004

: 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 **520** 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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SAN FRANCISCO CA 94111-3834

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APR 01 2008

OFFICE OF PETITIONS

In re Application of	:	
Raymond John Donhoe et al.	:	
Application No. 10/998,289	:	DECISION GRANTING PETITION
Filed: November 26, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 9197 USA/AGS/SPARES	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 31, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Amendment and Information Disclosure Statement.

Terri Williams

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.*

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 10998289

Total Records Found: 14

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/01/2008	00009375	4	1464	$130.00	03/31/2008	DA 201430
04/01/2008	00009376	4	1801	$810.00	03/31/2008	DA 201430
01/17/2008	00011420	4	1501	$1,440.00	01/17/2008	DA 501074
01/17/2008	00011421	4	1504	$300.00	01/17/2008	DA 501074
11/21/2007	00006358	4	1464	$130.00	11/20/2007	DA 201430
10/10/2007	00011399	4	1801	$810.00	10/10/2007	DA 201430
10/10/2007	00011400	4	1808	$130.00	10/10/2007	DA 201430
05/21/2007	00008372	4	1801	$790.00	05/21/2007	DA 201430
11/22/2005	00000192		8007	$20.00	11/18/2005	DA 100258
11/08/2005	00000302		8007	$40.00	11/07/2005	DA 100258
12/06/2004	00000064	1	8021	$40.00	11/26/2004	DA 501074
12/01/2004	00000087	1	1001	$790.00	11/26/2004	DA 501074
12/01/2004	00000088	1	1201	$264.00	11/26/2004	DA 501074
12/01/2004	00000089	1	1202	$306.00	11/26/2004	DA 501074

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Paper No.

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA GA 30339-5994

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JAN 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Seurat Guiochet et al.	:	DECISION ON
Application No. 10/998,317	:	PETITION
Filed: November 26, 2004	:	
Atty Docket No. 80350-1340	:	

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b), filed December 16, 2008.

The petition is **GRANTED**.

The above-identified application was abandoned for failure to timely file a proper reply to the final Office action mailed April 3, 2008. This Office action set a shortened statutory period for reply of three (3) months from the mail date of the action. A reply was timely filed on October 1, 2008. However, the response was determined not to place the application in condition for allowance (See Advisory Action mailed November 3, 2008). No proper reply timely filed and no further extension of time obtainable, the application became abandoned effective October 4, 2008. A courtesy Notice of Abandonment was mailed on November 24, 2008.

On petition, petitioner submitted a Request for Continued Examination (RCE) and submission under §1.114 (in the form of an amendment); paid the petition fee; and made the required statement of unintentional delay.

Technology Center AU 3742 has been advised of this decision. The application is, thereby, forwarded to the examiner for

consideration of the RCE and submission submitted on petition filed December 16, 2008.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

Mail Date: 04/21/2010

Applicant	: Claire Marie-Aurore Seurat Guiochet	: DECISION ON REQUEST FOR
Patent Number	: 7637206	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,317	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/26/2004	: ISSUE CERTIFICATE OF CORRECTION

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **666** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Steven W. Webb
Law Offices of Steven W. Webb
655 2nd Street
Encinitas CA 92024

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FEB 13 2009

OFFICE OF PETITIONS

In re Application of :
Amir Nachumi :
Application No. 10/998,335 : ON PETITION
Filed: November 29, 2004 :
Attorney Docket No. :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 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 s to timely pay the issue and publication fees on or before August 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 3, 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).

Petitioner has indicated on the Issue Fee Transmittal (PTOL-85(b)) that Form PTO-2038 for payment by credit card is attached. However, the Office did not receive the credit card form by way EFS-web and as a result the issue and publication fees remain unpaid. Petitioner must submit the issue and publication fees before the instant petition can be revived.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to have the power of attorney in this application, the appropriate power of attorney or authorization of agent must be submitted.

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 JoAnne Burke at (571) 272-4584.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Steven W. Webb
Law Offices of Steven W. Webb
655 2nd Street
Encinitas CA 92024

MAILED

APR 13 2009

OFFICE OF PETITIONS

In re Application of Amir Nachumi Application No. 10/998,335 Filed: November 29, 2004 Attorney Docket No.	: : : : :	ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before August 2, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 2, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on August 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Office of Data Management for further processing in accordance with this decision on petition.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/998,335	11/29/2004	Amir Nachumi	

CONFIRMATION NO. 3059

POA ACCEPTANCE LETTER

Steven W. Webb
Law Offices of Steven W. Webb
655 2nd Street
Encinitas, CA 92024

OC000000035362719

Date Mailed: 04/06/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/18/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

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

DAVID M. SIGMOND
487 BLACKFOOT STREET
SUPERIOR CO 80027

In re Patent No. 7,071,089
Issue Date: July 4, 2006
Application No. 10/998,338
Filed: November 27, 2004
Attorney Docket No. BDG037-1

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed July 21, 2006, requesting issuance of duplicate Letters Patent for the above-identified application.

The petition is **DISMISSED** as Moot.

The petition is dismissed as moot in view of the remailing of the patent grant on July 26, 2006.

The petition fee of $400 will be refunded to Deposit Account No. 50-2178 as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE, PA 15668

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AUG 29 2005

OFFICE OF PETITIONS

In re Application of	:	
Braun, et al.	:	
Application No. 10/998,355	:	DECISION GRANTING PETITION
Filed: November 27, 2004	:	
Attorney Docket No. MB427	:	

This is a decision on the petition filed February 15, 2005, to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the alleged omission of page 4 of the specification.

The petition is **granted**.

On November 27, 2004, the above-identified application was filed. However, on January 31, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of November 27, 2004, and advising applicant page 4 of the specification appeared to have been omitted. Relative to the alleged omitted item, the notice set a non-extendable period for reply two-month period for reply.

In response, on February 15, 2005, applicant filed the present petition, a copy of page 4 of the specification, and an Office date-stamped postcard receipt acknowledging receipt of 21 pages of the specification, including claims and abstract, among other items.

Upon review of the record, page 4 of the specification was not located among the application papers. However, the evidence is convincing that the application papers deposited November 27, 2004, included page 4 of the specification, which was subsequently misplaced by the Office. Therefore, the application, including pages 4 of the specification, was complete on filing and entitled to the presently accorded filing date of November 27, 2004, with page 4 of the specification as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of November 27, 2004, with page 4 of the specification included as part of the original disclosure.

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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LAHIVE & COCKFIELD, LLP
ONE POST OFFICE SQUARE
BOSTON MA 02109-2127

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JAN 24 2008

OFFICE OF PETITIONS

In re Application of :
Hutvagner et al :
Application No. 10/998,364 :
Filed: November 26, 2004 :
Attorney Docket No. UMY-093RCE :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 9, 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 November 28, 2006. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 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 a Request for Continued Examination (RCE) and fee of $395.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $750.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1635 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.

Charlema 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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JENKINS, WILSON, TAYLOR & HUNT, P. A.
Suite 1200 UNIVERSITY TOWER
3100 TOWER BLVD.,
DURHAM, NC 27707

Mail Date: 04/21/2010

Applicant	: Patrick D. Wolf	: DECISION ON REQUEST FOR
Patent Number	: 7613509	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,385	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **601** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Daren C. Davis
Williams, Morgan & Amerson, P.C.
7676 Hillmont
Suite 250
Houston, TX 77040

DEC 02 2005

In re Application of:	:	
Wood et al.	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 10/998,397	:	
Filed: November 29, 2004	:	
Attorney Docket No.: **2083.004282**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed March 29, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation of previous powers of attorney and a new power of attorney were filed May 06, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications form the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Inquiries related to this decision should be directed to Edward Westin at (571) 272-1638.

Edward Westin

Edward Westin, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Law Offices of James E. Walton, PLLC
1169 N. Burleson Blvd., Suite 107-328
Burleson, TX 76028

UNITED STATES PATENT AND TRADEMARK OFFICE

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SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

MAILED

OCT 01 2009

OFFICE OF PETITIONS

In re Application of	:
Wing-Kee Philip Cho	: DECISION ON
Application No. 10/998,400	: APPLICATION FOR
Filed: November 29, 2004	: PATENT TERM ADJUSTMENT
Atty Docket No. CV01489KC	:
	:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed April 7, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred sixty-nine (1269) days, not eight hundred eighty-four (884) 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[1]. In addition, pursuant to their duty of good faith and candor to the Office, applicant discloses bases for entry of additional periods of reduction for applicant delay.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

[1] This calculation is based on a projected issuance date of July 21, 2009.

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). 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 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[2].

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[2] 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.

To the extent that applicant otherwise requests correction of the initial determination of patent term adjustment (PTA), the request is **GRANTED to the extent indicated herein.**

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 eight hundred forty-nine **(849)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 889 days. Applicant discloses that periods of reduction for applicant delay should be entered 1) arguably pursuant to 37 CFR 1.704(c)(8) for their filing of a request for refund on October 30, 2008 after having filed a reply on September 25, 2008, and 2) pursuant to 37 CFR 1.704(c)(10) for the filing of a 312 amendment on February 13, 2009.

With respect to the filing of the request for refund, applicant is correct. The request for refund was filed under circumstances that constitute a failure to engage within the meaning of 37 CFR 1.704(c)(8). Accordingly, pursuant to 37 CFR 1.705(c)(8), a period of reduction of 35 days is being entered.

However, applicant's disclosure with respect to a reduction being warranted for the 312 amendment filed February 13, 2009 is also premature. As stated above, the computer will not calculate any applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. Thus, the reduction for applicant delay for filing the 312 amendment will be reflected in the revised patent term adjustment indicated on the patent. Applicant should advise the Office after issuance of the patent, if the revised patent term adjustment, does not include this period of reduction.

In view thereof, the initial determination of patent term adjustment at the time of the mailing of the notice of allowance is eight hundred forty-nine (849) days.

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).

To the extent that this letter was submitted as an advisement to the Office of an error in Applicant's favor, the Office thanks applicant for their good faith and candor in bringing this to the attention of the Office.

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 at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM PTA Calculations

Day : Thursday
Date: 10/1/2009

PALM INTRANET

Time: 09:13:28

PTA Calculations for Application: 10/998400			
Application Filing Date:	11/29/2004	PTO Delay (PTO):	884
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	849
PTO Delay Adjustment:	-35		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
66	10/01/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		35	
55	01/09/2009	MAIL NOTICE OF ALLOWANCE			
54	01/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
53	01/07/2009	CASE DOCKETED TO EXAMINER IN GAU			
52	01/07/2009	ISSUE REVISION COMPLETED			
51	01/07/2009	DOCUMENT VERIFICATION			
50	12/22/2008	EXAMINER'S AMENDMENT COMMUNICATION			
49	12/22/2008	NOTICE OF ALLOWABILITY			
45	10/30/2008	REQUEST FOR REFUND			
44	10/22/2008	PARALEGAL TD ACCEPTED			
43	10/21/2008	TERMINAL DISCLAIMER FEE PAID			
42	09/25/2008	TERMINAL DISCLAIMER FILED		0	40
41	10/08/2008	DATE FORWARDED TO EXAMINER			
40	09/25/2008	RESPONSE AFTER NON-FINAL ACTION			
39	06/03/2008	MISCELLANEOUS INCOMING LETTER			
38	07/01/2008	MAIL NON-FINAL REJECTION	884		-1
37	06/23/2008	NON-FINAL REJECTION			
36	11/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	05/07/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	11/12/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
33	11/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
32	03/15/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			

31	03/15/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
29	05/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
28	05/07/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
27	01/05/2007	MISCELLANEOUS INCOMING LETTER			
26	05/12/2006	MISCELLANEOUS INCOMING LETTER			
25	09/19/2005	CORRESPONDENCE ADDRESS CHANGE			
24.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
24	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
23	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
22.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
22	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
20	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
19	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18.7	06/20/2005	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
18	06/20/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	06/17/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
16	11/29/2004	PRELIMINARY AMENDMENT			
15	06/17/2005	CASE DOCKETED TO EXAMINER IN GAU			
14.7	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	04/04/2005	APPLICATION RETURN FROM OIPE			

12	04/04/2005	APPLICATION IS NOW COMPLETE			
11	04/04/2005	APPLICATION RETURN TO OIPE			
10	04/01/2005	APPLICATION RETURN FROM OIPE			
9	04/04/2005	APPLICATION IS NOW COMPLETE			
8	04/01/2005	APPLICATION RETURN TO OIPE			
7	04/01/2005	APPLICATION DISPATCHED FROM OIPE			
6	04/04/2005	APPLICATION IS NOW COMPLETE			
5	03/31/2005	CLEARED BY L&R (LARS)			
4	01/07/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	01/07/2005	CASE CLASSIFIED BY OIPE			
2	01/06/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/29/2004	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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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Andy Caves	: DECISION ON REQUEST FOR
Patent Number	: 7590470	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,418	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **710** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WOOD, HERRON & EVANS, LLP (TOKYO ELECTRON)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

Applicant	: Kenji Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7638002	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,420	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **483** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEYFARTH SHAW LLP
131 S. DEARBORN ST., SUITE2400
CHICAGO, IL 60603-5803

In re Application of
Richard L. Hopper, Jr., et al.
Application No. 10/998,428
Filed: November 29, 2004
Attorney Docket No. 25493-461600

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 5, 2006.

The petition is GRANTED.

The application became abandoned for failure to pay the issue fee on or before May 30, 2006. This decision precedes the mailing of a Notice of Abandonment. Receipt is acknowledged of the requisite issue/publication fee on June 5, 2006.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being forwarded to Publishing Division.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: HAROLD V. STOTLAND
55 E. MONROE ST., SUITE 4200
CHICAGO, IL 60603

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Date : May 22, 2007

Patent No. : 7171336 B2
Inventor(s) : Brockhaus
Issued : Jan. 30, 2007
Title : **METHOD FOR OPERATING A MEASURING INSTRUMENT**
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 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: 571-273-8300
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON MA 02210

CBN/eme

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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

In re Application of	:	
Fini et al.	:	
Application No. 10/998,437	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. MALCC 70031	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 16, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 19, 2008

TO SPE OF : ART UNIT 3771

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/998437 Patent No.: 7278428 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

✓ **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: Requested correction is approved because Applicant only updated the continuity data without introducing any new matters.

SPE Justine Yu
Art Unit 3771

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BEN E. LOFSTEDT
P.O. BOX 4189
FULLERTON, CA 92831

In re Application of	:	
TAYLOR, Michael Steven	:	
Application No. 10/998,444	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 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 Ben E. Lofstedt, the sole attorney of record. Ben E. Lofstedt has been withdrawn as attorneys or agents of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

The application became abandoned for failure to timely respond to the non-final office action mailed February 6, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MICHAEL S. TAYLOR**
1539 BROMLEY AVENUE
LA PUENTE, CA 91746

cc: **4400 PHILADEPHIA STREET, APT 164**
CHINO, CA 91710

PATENT APPLICATION
Docket No.: 303425.3000-103

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	David J. Elliott, Ronald P. Millman, Jr., Murray Tardif and Krista Aiello		
Application No.:	Not Assigned	Group Art Unit:	Not Assigned
Filed:	November 29, 2004	Examiner:	Not Assigned
Title:	System for Surface Cleaning		

EXPRESS MAIL NO. ER 963710482US

10/998465

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102 (c)

PETITION GRANTED

R Crispino

Richard Crispino
Special Program Examiner
TC 1700 2/7/05

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

We request that the above-identified patent application be advanced out of turn pursuant to 37 C.F.R. § 1.102 (c). The instant patent application is believed eligible for advancement out of turn because use of the invention materially enhances the quality of the environment and the invention materially contributes to the conservation of energy resources. The present invention is directed to cleaning substrate surfaces such as semiconductor wafers using significantly less water and electricity for removing photoresist from the semiconductor wafers as contrasted with prior art processes. Furthermore, the invention cleans semiconductor wafers without generating any hazardous by-products and uses a relatively small and simple tool replacing three individual systems currently being used.

The instant application is a divisional application of application number 10/870,646 filed June 17, 2004 and having title "System and Methods for Surface Cleaning," and is filed in response to a Restriction Requirement mailed on November 4, 2004. A Petition to Make Special was filed in the parent and was granted on September 21, 2004. Appendix A to this Petition to Make Special contains a true copy of the Petition to Make Special filed in the parent application on June 17, 2004, and Appendix B contains a true copy of the September 21, 2004 notice granting the Petition in the parent application.

Pursuant to 37 C.F.R. § 1.102 (d) no fee is required. Please charge any deficiency in fees and credit any overpayment to Deposit Account 50-1935. A duplicate copy of this letter is attached for accounting purposes.

Respectfully submitted,

By James K Weixel

James K. Weixel
Registration No.: 44,399
Telephone: (508) 416-2487
Facsimile: (508) 929-3073

Bowditch & Dewey, LLP
161 Worcester Rd.
Framingham, MA 01701-9320

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HARRITY & HARRITY, LLP
11350 RANDOM HILLS ROAD
SUITE 600
FAIRFAX VA 22030

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OFFICE OF PETITIONS

In re Application of :

ELLIOTT, David J. et al. :
Application No. 10/998,465 : DECISION ON PETITION
Filed: November 29, 2004 : TO WITHDRAW
Attorney Docket No. : FROM RECORD

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 11, 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 James Olsen on behalf of all attorneys of record who are associated with customer No. 26615. All attorneys/agents associated with the Customer Number 26615 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor David Elliott at the address indicated below.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DAVID J. ELLIOTT**
490 BOSTON POST ROAD
SUDBURY MA 01776

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/998,500	11/29/2004	Stephen G. Dick	I-2-0257.2US	3647

24374 7590 11/17/2009
VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

EXAMINER
TRAN, PABLO N

ART UNIT	PAPER NUMBER
2618	

MAIL DATE	DELIVERY MODE
11/17/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091113

DATE : November 13, 2009

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction on Patent No.: 7,536,208

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:

/Pablo N Tran/

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FEB 22 2007

Technology Center 2100

REED SMITH LLP
3110 Fairview Park Drive
Suite 1400
Falls Church, VA 22042

In re Application of: Homare OKAMOTO
Application No. 10/998,552
Filed: November 30, 2004
For: DISK ARRAY SYSTEM

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 07 August 2006, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Mano Padmanabhan
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

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JUN 1 7 2008

OFFICE OF PETITIONS

In re Application of :
Joseph Scott Dixon et al. :
Application No. 10/998,683 : ON PETITION
Filed: November 29, 2004 :
Attorney Docket No. 2004 P 14325 US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, September 26, 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 December 27, 2006. A Notice of Abandonment was mailed on May 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 an amendment, which places the case in condition for allowance; (2) the petition fee of $1500; and (3) a proper statement of unintentional delay. Accordingly the amendment 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 $450 extension of time fee submitted with the petition May 29, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2835 for appropriate action by the Examiner in the normal course of business on the amendment filed on May 29, 2007.

Carl Friedman
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAR 18 2005

NATTER & NATTER
25 WEST 43 STREET
NEW YORK NY 10036

In re Application of	:	
Eugene C. Wagner	:	
Serial No.: 10/998,705	:	DECISION ON PETITION
Filed: November 29, 2004	:	
For: Tooth Whitening Appliance Having	:	
Membrane Covered Applicator	:	

This is in response to applicants' petition filed November 29, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Richard Bertsch, by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-0275.

Richard A. Bertsch, Director
Technology Center 3700

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UNITED STATES DEPARTMENT OF COMMERCE
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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 04/21/2010

Applicant	: Ruoh-Huey Uang	: DECISION ON REQUEST FOR
Patent Number	: 7598609	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,741	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **592** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

LADAS & PARRY
26 WEST 61ST STREET
NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Application of :
Gerard Cornelis Van Der Knijff :
et al. :
Application No. 10/998,762 :
Date of Deposit: November 29, :
2004 :
Attorney Docket No.: :
U 015500-9 :
Title: DEVICE FOR TREATING :
BULBOUS OR TUBEROUS PLANTS :

DECISION ON PETITION

This is a decision on the petition filed September 6, 2005, requesting that the above-identified application be accorded a filing date of November 29, 2004 with Figures 1-16c included as part of the original disclosure.

The application was deposited on November 29, 2004. However, on February 17, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (first notice), stating that the application had NOT been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings. The notice set a two-month period for response. No reply was received, and consequently, a "Notice of Termination of Proceedings under 37 CFR 1.53(e)" (second notice) was mailed on August 24, 2005.

In response, on September 6, 2005, applicants filed the present petition, along with an assertion that a reply to the first notice was timely submitted on March 1, 2005. Petitioner has included a copy of this submission, and the papers contain a

certificate of mailing[1], a two page petition, 14 pages of drawings containing Figures 1-16c, and a declaration. Petitioner has also included a postcard receipt which establishes that the petition and the drawings were indeed received by the Office on March 7, 2005.

As such, although this response does not appear in the electronic file, it is clear that it was received in a timely manner and was subsequently misplaced by the Office.

However, the copy of the petition which was originally presented on March 7, 2005 has been reviewed, and it is noted that the signature block on the second page of the petition was left blank.

37 C.F.R. §10.18(a) sets forth:

> For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

As such, the petition of March 7, 2005 could not have been processed by the Office even if it had not been misplaced, and it cannot be processed at the present time.

Therefore, the present petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.53". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

---

1 It is noted that the certificate of mailing was not executed.
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.

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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Paper No. None

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NEW YORK NY 10023

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OFFICE OF PETITIONS

In re Application of :
Gerard Cornelis Van Der Knijff :
et al. :
Application No. 10/998,762 :
Date of Deposit: November 29, :
2004 :
Attorney Docket No.: :
U 015500-9 :
Title: DEVICE FOR TREATING :
BULBOUS OR TUBEROUS PLANTS :

DECISION ON RENEWED PETITION

This is a decision on the renewed petition filed February 27, 2006, requesting that the above-identified application be accorded a filing date of November 29, 2004 with Figures 1-16c included as part of the original disclosure.

The application was deposited on November 29, 2004. However, on February 17, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (first notice), stating that the application had NOT been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings. The notice set a two-month period for response. No reply was received, and consequently, a "Notice of Termination of Proceedings under 37 CFR 1.53(e)" (second notice) was mailed on August 24, 2005.

In response, Petitioner filed the original petition on September 6, 2005, along with an assertion that a reply to the first notice was timely submitted on March 1, 2005. Petitioner has included a copy of this submission, and the papers contain a certificate of mailing, a two page petition, 14 pages of drawings containing Figures 1-16c, and a declaration.

Petitioner has also included a postcard receipt which establishes that the petition and the drawings were indeed received by the Office on March 7, 2005.

The original petition was dismissed via the mailing of a decision on February 14, 2006. The decision indicated that although it appears that the response to the notice of February 17, 2005 was timely submitted, the response could not have been accepted pursuant to 37 C.F.R. §10.18(a), as it was not executed.

With this renewed petition, Petitioner has attested, over his registration number that the copy of the response to the notice of February 17, 2005 which was submitted with the original petition was a re-print of the response, and not a photocopy of the same[1]. As such, Petitioner has attested, over his registration number, that the response to the notice of February 17, 2005 was properly executed.

As such, the analysis will turn to the executed response to the notice of February 17, 2005. Petitioner has requested reconsideration of the notice, based on the incorporation by reference of the prior international (PCT) application. In support, Petitioner provided a copy of the drawings contained in the international application with the original petition. Petitioner requests that the present application, along with the 14 sheets of drawings from the PCT, be accorded a filing date of November 29, 2004.

It is noted that the application transmittal sheet states that the present application is a continuation of PCT Application No. PCT/NL03/00402, filed on May 28, 2003, and that the entire disclosure of this PCT application is incorporated by reference.

An applicant may incorporate by reference material necessary to obtain a filing date by reference to (1) a U.S. patent, (2) a U.S. patent application publication, (3) or a pending U.S. application[2]. The PCT enables foreign applicants to file a PCT international application, designating the United States of America, in their home language in their home patent office and have the application acknowledged as a regular U.S. national filing[3]. Since the subject PCT application designates the US, it is considered a pending U.S. application for purposes of incorporation by reference.

---

1 Renewed petition, pages 1 and 2.
2 MPEP 608.01(p).
3 MPEP 1801.

Based on the incorporation by reference statement appearing in the transmittal letter filed with the original application papers on November 29, 2004, stating that the entire disclosure of Application PCT/NL03/00402 is incorporated by reference, it appears that the 14 sheets of drawings were present in the November 29, 2004, albeit in the file of another application, *i.e.*, Application No. PCT/NL03/00402. Therefore, on petition, the application may be accorded the requested filing date.

The petition is **GRANTED**.

The application will be processed and examined using the 14 sheets of drawings contained in the PCT application. The Office of Initial Patent Examination (OIPE) will be made aware of this decision so that the application can be processed with a filing date of November 29, 2004, using the application papers filed on that date and the 14 sheets of drawings submitted with the original petition on September 6, 2005. OIPE will then mail a corrected filing receipt.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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OFFICE OF PETITIONS

RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, PA
222 LAKEVIEW AVE, SUITE 800
WEST PALM BEACH FL 33401-6112

In re Application of :
HAWKINS :
Application No. 10/998,774 :
Filed: November 29, 2004 :
Attorney Docket No. 47131-0004 :

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 27, 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 Stanley A. Kim of on behalf of all attorneys of record who are associated with customer No. 43463. All attorneys/agents associated with the Customer Number 43463 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **THOMAS HAWKINS**
227 MICHIGAN AVENUE, #104
MIAMI, FL 33139

cc: **MARK TERRY**
2250 SW 3RD AVENUE, SUITE 500
MIAMI, FL 33129

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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
10/998,774	11/29/2004	Thomas Hawkins	47131-0004

CONFIRMATION NO. 5084

OC000000021685724

43463
RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
222 LAKEVIEW AVE
SUITE 800
WEST PALM BEACH, FL 33401-6112

Date Mailed: 12/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/27/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Application of
John Hochstein, et. al.
Application No. 10/998,788
Filed: November 29, 2004
Attorney Docket No. AMK-4107-16

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 16, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, January 30, 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 May 1, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "under 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 (over 2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on May 1, 2006. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Douglas Kozlay was pro-se at the time of abandonment, he should explain why this application became abandoned while it was under his control and what efforts he made to further reply and with whom this matter was discussed. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all 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 (over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

MAILED

SEP 23 2009

OFFICE OF PETITIONS

In re Application of	:	
John Hochstein, et al.	:	
Application No. 10/998,788	:	DECISION ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. AMK-4107-16	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 12, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 30, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 1, 2006. The Notice of Abandonment was mailed January 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (previously filed); (2) the petition fee of $770 (previously filed); and (3) an adequate statement of unintentional delay (previously submitted).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

The application file is being referred to Technology Center AU 2876 for appropriate action on the previously filed amendment.

Terri Johnson
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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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE MD 20850

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OFFICE OF PETITIONS

In re Application of
Daniel Braun
Application No. 10/998,807
Filed: November 30, 2004
Attorney Docket No. 0928.0142(c)

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 18, 2006 to revive the above-identified application.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed January 4, 2006 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on April 5, 2006. A Notice of Abandonment was mailed on May 11, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Office acknowledges receipt of corrected drawings submitted with the instant petition.

This application is being forwarded to the Office of Patent Publication for review of the drawings submitted on petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petition Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 23 2007

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,823	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-053	

This is in response to the petition under 37 CFR § 1.59(b), filed March 15, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on February 28, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

JUN 22 2007

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,823	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-053	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on February 28, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,824	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-052	

This is in response to the petition under 37 CFR § 1.59(b), filed March 15, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on February 28, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,824	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-052	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on February 28, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,825	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-051	

This is in response to the petition under 37 CFR § 1.59(b), filed March 15, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 15, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

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.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 10/998,825	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1423-051	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 18, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on March 15, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
Suite 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Michael J. Reinke	: DECISION ON REQUEST FOR
Patent Number	: 7618598	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,852	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.
11TH FLOOR, SEVEN PENN CENTER
1635 MARKET STREET
PHILADELPHIA, PA 19103-2212

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FROM DIRECTORS OFFICE

AUG 01 2006

TECHNOLOGY CENTER 3600

In re application of
Eric Eckstein et al.
Application No. 10/998,857
Filed: November 29, 2004
For: METHOD AND SYSTEM FOR DETERMIINING BILLING INFORMATION IN A TAG FABRICATION PROCESS

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on July 19, 2006 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.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 07/27/06

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CHOATE, HALL & STEWART/HARVARD UNIVERSITY
Two International Place
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of	:	
Stuart L. Schreiber, et al.	:	
Application No. 10/998,867	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. 2001180-0085 (HU 1633)	:	FROM RECORD
	:	

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 9, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Brenda Jarell on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Stuart L. Schreiber at the address indicated below.

There is an outstanding Office action mailed March 13, 2009 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Stuart L. Schreiber**
434 Marlborough Street
Boston, MA 02115

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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
10/998,867	11/29/2004	Stuart L. Schreiber	2001180-0085 (HU 1633)

CONFIRMATION NO. 4678

58374
CHOATE, HALL & STEWART/HARVARD UNIVERSITY
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

POWER OF ATTORNEY NOTICE

OC000000036906870

Date Mailed: 07/13/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/09/2009.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FOLEY & LARDNER, LLP
P.O. BOX 80278
SAN DIEGO, CA 92138-0278

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SEP 12 2008

OFFICE OF PETITIONS

In re Application of	:	
HAKALA, Kimmo	:	
Application No. 10/998,872	:	DECISION ON PETITION TO
Filed: November 29, 2004	:	WITHDRAW FROM RECORD
Attorney Docket No. 037145-7201	:	

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 DISMISSED as moot.

A review of the file record indicates that the power of attorney to FOLEY & LARDNER, LLP has been revoked by the assignee of the patent application on September 2, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: BANNER & WITCOFF, LTD.
1100 13TH STREET NW, SUITE 1200
WASHINGTON, DC 20005-4051

UNITED STATES PATENT AND TRADEMARK OFFICE

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YOUNG & BASILE, P.C.
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY MI 48084

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JUL 09 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Martin :
Application No. 10/998,873 :
Filed: November 29, 2004 :
Attorney Docket No. MEQ101A :
For: DEBRIS DEFLECTOR FOR AUTOMOBILE SEATS AND METHOD OF USING SAME

This is a decision on the petition, filed February15, 2007 (certificate of mailing date February 13, 2007), under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 15, 2005 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 16, 2005. A Notice of Abandonment was mailed on February 10, 2006.

Applicant has submitted an amendment in reply to the July 15, 2005 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 15, 2005 non-final Office action, and the $750.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center A.U. 1624 for consideration of the amendment filed on February 14, 2007.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Schultz & Associates, P.C.
5400 LBJ Freeway, Suite 1200
Dallas, TX 75240

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OCT 15 2007

OFFICE OF PETITIONS

In re Application of

Raffaele Martini Pandozy :

Application No. 10/998,875

: DECISION ON PETITION

Filed: November 29, 2004

:

Attorney Docket No. 63904.0104

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition" under 37 CFR 1.137(b)."

This application became abandoned for failure to respond in a timely manner to the Notice of Non-Compliant Amendment mailed November 29, 2005. The notice set a shortened period for reply of one-month from its mailing date. Extensions of time were available pursuant to 37 CFR 1.136(a). A response was not received within the allowable period and the application became abandoned on December 30, 2005. A Notice of Abandonment was mailed on May 24, 2006.

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.

As to Item (3), the *Manual of Paten Examining Procedure*, Section 7711.03(c) provides, in pertinent part, that:

> >Where a petition pursuant to 37 CFR 1.137(b) is not filed within 1 year of the date of abandonment of the application (note that abandonment takes place by operation of law, rather than by the mailing of a Notice of Abandonment), the Office may require:
>
> (A) further information as to when the applicant (or the applicant's representative) 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 (or applicant's representative).<
>
> To avoid delay in the consideration of the merits of a petition under 37 CFR **>1.137(b)< 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(a) or 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application.

Petitioner did not provide not explanation for the delay in filing the instant petition. Accordingly, the renewed petition must be accompanied by an explanation for said delay including, but not limited to, the considerations provided in MPEP § 711.03(c) cited above.

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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5400 LBJ Freeway, Suite 1200
Dallas TX 75240

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OFFICE OF PETITIONS

In re Application of

Raffaele Martini Pandozy

Application No. 10/998,875

Filed: November 29, 2004

Attorney Docket No. 63904.0104

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 19, 2007, to revive the above-identified application.

The renewed petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 29, 2005, which set a shortened period for reply of one (1) month from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on December 30, 2005. A Notice of Abandonment was mailed on May 24, 2006. A petition under 37 CFR 1.137(b) was first filed on August 24, 2007, and dismissed by a decision mailed October 15, 2007.

The amendment filed August 24, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3764 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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JAN 29 2007

OFFICE OF PETITIONS

In re Application of :
Chia Hao Fan :
Application No. 10/998,882 : ON PETITION
Filed: 29 November, 2004 :
For: CONNECTOR FOR MEMORY CARDS :

This is a decision on the petition under 37 CFR 1.181, filed on 7 November, 2006 (certificate of mailing date 6 November, 2006), styled as a petition under 37 CFR 1.137(a), to withdraw the holding of abandonment in the above-identified application.

This application became abandoned on 25 March, 2006, for failure to timely respond to the final Office action mailed on 24 January, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 September, 2006.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to non-receipt of the Office action mailed on 24 January, 2006.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 24 January, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's

statement.[1] For example, if a three (3) month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three (3) months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

The showing of record is insufficient to warrant withdrawal of the holding of abandonment at this time. Specifically, while petitioner has supplied a copy of a docket record, the headings and entries on the docket record are in a language other than English. As such, the information on the docket report cannot interpreted.

It is requested that petitioner submit a copy of the docket record in English, or at a minimum, provide an English translation of the non-English writing on the docket record.

As such, the petition is **dismissed**. However, the dismissal is without prejudice to reconsideration pending submission of the item required above.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

[2] 37 CFR 1.181(f).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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SANTA CLARA CA 95050

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JUN 0 7 2007

OFFICE OF PETITIONS

In re Application of :
Chia Hao Fan :
Application No. 10/998,882 : ON PETITION
Filed: 29 November, 2004 :
For: CONNECTOR FOR MEMORY CARDS :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. 1.181 TO WITHDRAW THE HOLDING OF ABANDONMENT," filed on 2 April, 2007 (certificate of mailing date 29 March, 2007).

The petition is **GRANTED**.

This application was held abandoned on 25 April, 2006, for failure to timely respond to the final Office action mailed on 24 January, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 September, 2006. The petition filed on 7 November, 2006, was dismissed on 29 January, 2007.

In the present petition, petitioner again requests that the Office withdraw the holding of abandonment due to non-receipt of the final Office action mailed on 24 January, 2006.

A review of the record indicates no irregularity in the mailing of the Office communication mailed on 24 January, 2006, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner, stating that the practitioner did not receive the Office communication and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office

communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.[1] For example, if a three (3) month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three (3) months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.

In support of the petition, the petitioner's counsel, registered patent attorney Wei-Te Chung, attested in the petition filed on 7 November, 2006, that non-receipt of the office action "is based upon a search of the file jacket, and of docket records of which a copy is attached hereto." The original petition was dismissed, however, because the headings and entries on the docket record are in a language other than English.

Petitioners counsel asserts that the renewed petition is accompanied by an English translation of the non-English language document. A docket record is attached to the renewed petition.

The petitioner has made a sufficient showing of nonreceipt of the final Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to Technology Center Art Unit 2833 for remailing of the final Office action. The period for reply will be reset from the mailing date thereof.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[1] M.P.E.P. § 711.03(c); See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/3/09

TO SPE OF : ART UNIT 2851 Diane Lee (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/998905 Patent No.: 7251014

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box:

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Diane Lee
SPE

2851
Art Unit

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ROGERS TOWERS, P.A.
1301 RIVERPLACE BOULEVARD, SUITE 1500
JACKSONVILLE, FL 32207

Mail Date: 04/21/2010

Applicant	: Michael Teague	: DECISION ON REQUEST FOR
Patent Number	: 7588576	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,906	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **169** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: James W. Sorenson	: DECISION ON REQUEST FOR
Patent Number	: 7607991	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/998,909	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **808** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON DC 20036

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kita, et al. :
Application No. 10/998,913 :
Filed: November 30, 2004 :
Attorney Docket No. 29015.0037 :
For: TRIARYLAMINE DIMER DERIVATIVE HAVING AMORPHOUS PHASE

This is a decision on the correspondence filed on October 2, 2008 and supplemented on October 10, 2008, which are collectively being treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition under 37 CFR 1.181 is **granted**.

This application was held abandoned for failure to respond in a timely manner to the Notice mailed on May 14, 2008, which set an extendable one month or thirty day (whichever was longer) period for reply. The Office has no record of receiving an extension of time or a reply to the May 14, 2008 Notice in application no. 10/998,913. Therefore, the Office considered the application abandoned on June 15, 2008. A Notice of Abandonment was mailed on September 30, 2008.

Petitioners assert that a proper response in the form of an election was timely filed on June 10, 2008. Petitioners explain that through inadvertent error, petitioners listed the application number as 10/988,913 with a cross out of the first 8 and a handwritten 9 above it on the election. Therefore, the election was not associated with application no. 10/998,913's file.

A review of the contents of the application no. 10/988,913 reveals that the June 10, 2008 election is present.

Even though petitioners cited the wrong application number on the election, under MPEP 502, " A minor error in the identification of the application can be corrected by the group provided the correct identification can be quickly discovered. Examples of minor errors are transposed numbers, typographical errors, and listing the parent application number." The undersigned believes that a relatively simple review of Office records would have yielded the correct application number to enable the Office to match the June 10, 2008 correspondence with this application file. A cross-referencing of any of the accurate identifiers found on the election with Office databases would have revealed the typographical error.

The undersigned will request that the June 10, 2008 election be removed from the file of application no. 10/988,913 and placed in the file of the above-identified application.

The June 10, 2008 election was timely filed. Accordingly, the petition is **GRANTED**, the September 30, 2008 Notice of Abandonment is hereby vacated, and the holding of abandonment withdrawn.

The application file will be forwarded to the Technology Center AU 1621 for consideration of the election filed on June 10, 2008.

Telephone inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

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NOV 30 2007

OFFICE OF PETITIONS

In re Application of	:
Kunihiro Iwatsuki et al	:
Application No. 10/998,958	: DECISION GRANTING PETITION
Filed: November 30, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 262227US6	:

This is a decision on the petition, filed November 29, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on 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 3681 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\nov11\998958.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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1940 DUKE STREET
ALEXANDRIA VA 22314

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In re Application of	:	
Kunihiro Iwatsuki et al	:	
Application No. 10/998,958	:	DECISION GRANTING PETITION
Filed: November 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 262227US6	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 2, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 17, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3681 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently 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.*

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HELLER EHRMAN LLP
1717 RHODE ISLAND AVE, NW
WASHINGTON DC 20036-3001

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APR 10 2007

OFFICE OF PETITIONS

In re Application of	:	
Jin Hong Kim	:	
Application No. 10/998,964	:	DECISION GRANTING PETITION
Filed: November 30, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 40296-0144	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed April 2, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2817 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

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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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In re Application of	:	
Hiji et al.	:	DECISION ON APPLICATION
Application No. 10/999,001	:	FOR
Filed: November 30, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 053588-5038	:	

This is in response to the STATEMENT OF FACTS UNDER 37 CFR 1.705(b)(2), filed September 30, 2008, which is properly treated as an application for patent term adjustment. Applicants request that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected from eleven (11) days to three hundred forty-seven (347) days.

The application for patent term adjustment is **GRANTED to the extent indicated herein**.

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 eighty-two (682)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 30, 2008, the Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. Applicants were advised that the patent term adjustment to date is 11 days. On September 30, 2008, applicants timely[1] filed the instant application for patent term adjustment. Applicants dispute the reduction of 336 days, pursuant to 37 CFR 1.704(b), for applicant delay in filing a response to the Office action mailed January 12, 2007 on March 13, 2008, three months and 336 days later. Applicants maintain

[1] Office records show that the Issue Fee payment was also received on September 30, 2008.

that the Office action mailed January 12, 2007 was never received. Rather, due to Office error, the Office action was mailed to an incorrect address. Further, within three months, applicants timely filed the response to the Office action as re-mailed on December 13, 2007.

Applicants state that any patent issuing from the application is not subject to a terminal disclaimer.

The application history has been reviewed and it has been determined that the initial patent term adjustment of 11 days is incorrect. In this instance, applicants are correct that the delay in responding to the Office action should be calculated based on the date of the Restarted Response Period and not based on the date of the mailing of the original Office action. As their response was received within three months of the Letter Restarting Period for Response (the re-mailed Office action), there was no applicant delay within the meaning of §1.704(b). The period of reduction of 336 days has been removed.

Further, the Office mailed an Office action under section 151 on January 12, 2007, fourteen months and 347 days after the date of filing of the application. However, the Notice was not mailed to the proper correspondence address of record. The record supports a conclusion that this was due to an error on the part of the Office in mailing the Office action to applicants. The correspondence address of record has always remained that of the Morgan Lewis & Bockius law firm. However, the Office erred in mailing the Office action to a different address, not associated with this application. Accordingly, the Office's delay in mailing a first Office action should be calculating using the December 13, 2007 date. Thus, the period of adjustment pursuant to 37 CFR 1.702(a)(1) is 682 days.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is six hundred eighty-two (682) days.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The Office of Data Management has been advised of this decision. The application is, thereby, being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of updated PAIR screen

Day : Saturday
Date: 11/8/2008

PALM INTRANET

Time: 06:35:22

PTA Calculations for Application: 10/999001			
Application Filing Date:	**11/30/2004**	PTO Delay (PTO):	**347**
Issue Date of Patent:		Three Years:	**0**
Pre-Issue Petitions:	**0**	Applicant Delay (APPL):	**336**
Post-Issue Petitions:	**0**	Total PTA (days):	**682**
PTO Delay Adjustment:	**671**		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
38	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	682		
37	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		347	
36	11/08/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	336		
29	06/30/2008	MAIL NOTICE OF ALLOWANCE			
28	06/27/2008	ISSUE REVISION COMPLETED			
27	06/27/2008	DOCUMENT VERIFICATION			
26	06/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
25	06/23/2008	CASE DOCKETED TO EXAMINER IN GAU			
24	06/23/2008	NOTICE OF ALLOWABILITY			
23	04/16/2008	DATE FORWARDED TO EXAMINER			
22	03/13/2008	RESPONSE AFTER NON-FINAL ACTION		336	15
21	12/13/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
20	12/10/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
19	12/11/2007	MAIL NOTICE OF RESTARTED RESPONSE PERIOD			
18	10/04/2007	CASE DOCKETED TO EXAMINER IN GAU			
17	09/20/2007	CORRESPONDENCE ADDRESS CHANGE			
16	07/27/2007	LETTER RESTARTING PERIOD FOR RESPONSE (I.E. LETTER RE: REFERENCES)			
15	01/12/2007	MAIL NON-FINAL REJECTION	347		-1
14	01/08/2007	NON-FINAL REJECTION			
13	11/30/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
12	12/21/2006	CASE DOCKETED TO EXAMINER IN GAU			
11	05/01/2006	CORRESPONDENCE ADDRESS CHANGE			

10	09/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
9	09/28/2005	CASE DOCKETED TO EXAMINER IN GAU			
8	11/30/2004	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
7.7	11/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	11/30/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
6	04/01/2005	APPLICATION DISPATCHED FROM OIPE			
5	04/01/2005	APPLICATION IS NOW COMPLETE			
4	03/31/2005	CLEARED BY L&R (LARS)			
3	12/22/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/16/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/30/2004	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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MAY 15 2006

TECHNOLOGY CENTER 3600

LITTMAN LAW OFFICES, LTD
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON, VA 22215

In re application of
Faron L. Akins et al.
Application No. 10/999,002
Filed: November 30, 2004
For: ROOFING SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(ACCELERATED**
: **EXAMINATION)**

This is in response to the petition filed on April 27, 2006 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.**

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 05/10/06

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BARNES & THORNBURG LLP
11 SOUTH MERIDIAN
INDIANAPOLIS, IN 46204

Mail Date: 04/20/2010

Applicant	: Philip W. Burbrink	: DECISION ON REQUEST FOR
Patent Number	: 7584867	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,023	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1303** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Honeywell Law Department
Patent Services
101 Columbia Road, AB-2
P.O. Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/21/2010

Applicant	: Thomas S. Babich	: DECISION ON REQUEST FOR
Patent Number	: 7636039	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,033	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **454** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PROCOPIO CORY HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

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OFFICE OF PETITIONS

In re Application of	:	
John M. Carney	:	
Application No. 10/999,035	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 111988-001	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 7, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3764 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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SHOOK, HARDY & BACON L.L.P.
(MICROSOFT CORPORATION)
INTELLECTUAL PROPERTY DEPARTMENT
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

Applicant	: Leroy B. Keely	: DECISION ON REQUEST FOR
Patent Number	: 7671845	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,082	: OF WYETH
Filed	: 11/30/2004	:
		:

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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THE MCINTOSH GROUP
8000 E. PRENTICE AVE.
SUITE B-6
ENGLEWOOD, CO 80111

In re application of:
William B. Howard, et al.
Application No. 10/999,089
Filed: November 29, 2004
For: METHOD AND SYSTEM TO TRANSFER AND TO DISPLAY LOCATION INFORMATION ABOUT AN OBJECT

DECISION ON REQUEST TO WITHDRAW FROM RECORD

This is a decision on the request for withdrawal as attorney/agent and change of correspondence address filed on June 13, 2005

A grantable request to withdraw as attorney/agent of record must:
(1) indicate the present mailing address of the attorney(s)/agent(s) who seek(s) to withdraw, and
(2) be signed by each attorney/agent seeking to withdraw or clearly be signed on their behalf, and
(3) be *approved* at least thirty (30) days prior to the maximum extendable period for response to any outstanding Office Action, and
(4) indicate the address to which future correspondence should be mailed.

Petitioner has satisfied the requirements for successfully requesting withdrawal. Accordingly, the request is **GRANTED.**

All of the attorneys/agents associated with Customer Number 35846 have been withdrawn.

All future communications from the Office will be directed to the address listed below until otherwise notified by applicant. Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office of any change in correspondence address to ensure receipt of all communications from the Office.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

cc: Brant Howard
CompassCom, Inc.
6770 S. Dawson Circle, Unit 1A
Centennial, CO 80112-4224

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MARSH, FISCHMANN & BREYFOGLE, LLP
3151 SOUTH VAUGHN WAY
SUITE 411
AURORA, CO 80014

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OFFICE OF PETITIONS

In re Application of :
William Brant Howard, et. al. :
Application No. 10/999,089 :
Filed: November 29, 2004 :
Attorney Docket No. Compass004U :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed on September 10, 2007, to revive the above-identified application.

The application became abandoned for failure to file a reply to the Restriction/Election Requirement mailed October 19, 2006. A Notice of Abandonment was mailed on June 15, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This application file is being referred to Technology Center Art Unit 2617, for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: W. Brant Howard
6770 S. Dawson Circle, Suite 100
Centennial, CO 80112-4224

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RIMAS LUKAS
LUKAS IP GROUP
24576 MOONFIRE DRIVE
DANA POINT CA 92629

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OFFICE OF PETITIONS

In re Application of
David R. Siskin, et al.
Application No. 10/999,091
Filed: November 29, 2004
Attorney Docket No. JVD012000110

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 5, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The 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, "cessation of prosecution business", 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.

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: DAVID R. SISKIN
37 N. RIDGEWOOD ROAD
KENTFIELD, CA 94904

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RIMAS LUKAS
LUKAS IP GROUP
906 VIA PRESA
SAN CLEMENTE, CA 92672

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MAY 22 2008

In re Application of	:	
David R. Siskin, et al.	:	
Application No. 10/999,091	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. JVD012000110	:	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 August 8, 2007 and resubmitted November 14, 2007.

The request is **APPROVED**.

A review of the file record indicates that Rimas Lukas of Lukas IP Group: (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, Rimas Lukas of Lukas IP Group 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 address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

Applicant is reminded that there is no attorney of record at this time.

There are no pending Office actions at the present time.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVID R. SISKIN
37 N. RIDGEWOOD ROAD
KENTFIELD, CA 94904

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,091	11/29/2004	David R. Siskin	JVD012000110

CONFIRMATION NO. 4924

POWER OF ATTORNEY NOTICE

34690
RIMAS LUKAS
LUKAS IP GROUP
906 Via Presa
San Clemente, CA 92672

OC000000030015336

Date Mailed: 05/19/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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HONEYWELL INTERNATIONAL, INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of Shashi Kumar M. Kolavi Application No. 10/999,098 Filed: November 29, 2004 Attorney Docket No. PO4,0424 (H0006058)	DECISION GRANTING PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 20, 2005, as required by the Notice of Allowance and Fee(s) Due mailed September 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees ($1,400 and $300); (2) the petition fee ($1,500); 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

2 3 NOV 2007

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COMMISSIONER FOR PATENTS
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Harold C. Moore
MAGINOT, MOORE & BECK LLP
Chase Tower
111 Monument Circle, Suite 3250
Indianapolis, IN 46204-5115

In re Application of	:	DECISION ON
Kartal et al	:	
Application No.: 10/999,111	:	
PCT No.: PCT/DE03/01725	:	
Int. Filing Date: 27 May 2003	:	PETITION UNDER
Priority Date: 29 May 2002	:	
Attorney's Docket No.: 1890-0162	:	
For: High-Voltage... Optimization Method	:	37 CFR 1.137(b)

This decision is in response to applicants' "PETITION FOR REVIVAL OF AN INTERNATIONAL APPLICATION FOR PATENT DESIGNATING THE U.S. ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)," filed on 22 October 2007. The petition fee has been paid by check.

BACKGROUND

On 27 May 2003, this international application was filed, claiming an earliest priority date of 29 May 2002. A copy of the intentional application was transmitted on 11 December 2003 to the USPTO from the International Bureau.

Accordingly, the deadline for paying the basic national fee in the United States under 35 U.S.C. 371 and 37 CFR 1.494 was 29 November 2004. This international application became abandoned with respect to the United States at midnight on 29 November 2004 for failure to pay the required basic national fee.

On 22 October 2007, applicants filed the instant petition under 37 CFR 1.137(b) and Transmittal letter for entry into the national stage in the United States, which was accompanied by the petition fee, and basic national fee. No executed declaration or oath was submitted at such time.

DISCUSSION

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a

continuing application; (2) the petition fee as set forth in § 1.17(m); and (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Petitioner has provided: (1) the proper reply by submitting the basic national filing fee, and (2) the petition fee set forth in §1.17(m). In this application, no terminal disclaimer is required.

With respect to item (3), there appears to be a question whether the delay was unintentional for national stage entrance. It is noted that applicants filed a utility patent application under 35 USC 111(a) on 29 November 2004, which was assigned patent application serial no.: 10/999,111 and it claimed priority under 35 USC 119 to PCT application number PCT/DE03/01725. This implies that applicants made an intentional decision not to enter national stage under 35 USC 371 at that time in favor for applying under 35 USC 111(a), which a "Notice of Allowance" was mailed on 28 August 2007 for application 10/999,111.

Consequently, the petition is deemed to not to satisfy requirement (3) under 37 CFR 1.137(b).

DECISION

The petition under 37 CFR 1.137(b) is **DISMISSED** without prejudice.

If reconsideration of the merits of the petition under 37 CFR 1.137(b) is desired, applicant must file a request for reconsideration within **TWO (2) MONTHS** from the mail date of this Decision. Failure to timely submit the proper reply will result in abandonment of the application. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)." Extensions of time are available under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Tel: (571) 272-3276
Fax: (571) 273-0459

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17 DEC 2007

Harold C. Moore
MAGINOT, MOORE & BECK LLP
Chase Tower
111 Monument Circle, Suite 3250
Indianapolis, IN 46204-5115

In re Application of	:	DECISION ON RENEWED
Kartal et al	:	
Application No.: 10/999,111	:	
PCT No.: PCT/DE03/01725	:	
Int. Filing Date: 27 May 2003	:	PETITION UNDER
Priority Date: 29 May 2002	:	
Attorney's Docket No.: 1890-0162	:	
For: High-Voltage... Optimization Method	:	37 CFR 1.137(b)

This decision is responsive to applicants' "RENEWED PETITION UNDER 37 CFR 1.137(b)" filed on 03 December 2007 requesting reconsideration of the decision on 23 November 2007.

BACKGROUND

In a decision from this Office on 23 November 2007, the petition was dismissed because there was a question on whether the delay was unintentional and additional information was necessary to explain the filing of the petition.

On 03 December 2007 applicants submitted a second renewed petition under 37 CFR 1.137(b) explaining the delay.

DISCUSSION

The renewed petition on 03 December 2007 is deemed to satisfy item (3) under 37 CFR 1.137(b) because applicant has provided an explanation of the unintentional delay in the filing of the above application. This application was filed as a 35 USC 371 application but was processed as a 35 USC 111(a) application. Because of the erroneous processing, the aforementioned application did not go abandoned for failure to pay the national basic fee at the time of national stage commencement. Applicant, also, mistakenly thought that the basic national fee could be paid later. As such, applicant failure to pay the basic national fee was unintentional

Accordingly, applicant has now satisfied requirements (1), (2), (3) and, (4) under 37 CFR 1.137(b).

DECISION

The renewed petition under 37 CFR 1.137(b) is **GRANTED**.

This application is being returned to the United States Designated/Elected Office (DO/EO/US) for continued processing. The 35 USC 371(c)(1), (c)(2), and (c)(4) date of this application is **29 June 2005**.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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OFFICE OF PETITIONS

Maginot, Moore & Beck LLP
Chase Tower
Suite 3250
111 Monument Circle
Indianapolis IN 46204-5109

In re Application of	:	
Veli Kartal et al.	:	
Application No. 10/999,111	:	DECISION ON PETITION
Filed: June 29, 2005	:	AND
Attorney Docket No. 1890-0162	:	CORRECTED DECSION

This is a decision on the petition, filed October 10, 2008 (and resubmitted on August 7, 2009), which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application. This decision is also a corrected decision on the renewed petition under 37 CFR 1.137(b), filed December 3, 2007.

The petition under 37 CFR 1.181 is **DISMISSED**.

The renewed petition under 37 CFR 1.137(b) is **GRANTED.**

In regard to the petition under 37 CFR 1.181:

This application was held abandoned for failure to reply to the Notice of Allowance and Fee(s) Due mailed August 28, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on September 3, 2008.

Petitioner asserts that the Office action dated August 28, 2007 "was never issued by the Patent Office." A review of Patent Office records shows that a Notice of Allowance and Fee(s) Due was mailed on August 28, 2007. The record further shows applicants never responded to this Notice.

The petition does acknowledge the mailing of the above noted Notice of Allowance but avers that the Notice was not in effect and the "rationale behind issuance of the Notice of Abandonment is not known." Petitioner takes the position that since the application was abandoned at the time the Notice of Allowance was mailed, it was "inoperative". Taking this

line of reasoning, the entire prosecution in front of the examiner, from the restriction requirement mailed July 28, 2006 until the Notice of Allowance was inoperative. However, petitioner has not requested that prosecution be restarted from the beginning. The Notice of Allowance and the other examiner actions were mailed at a time when both the Office and applicant believed the application was in pending status. A similar situation is addressed in MPEP 711.03(c)(II)(A)(3) Abandonment for Failure to Notify the Office of a Foreign Filing After the Submission of a Non-Publication Request, which indicates the filing of a petition under 37 CFR 1.137(b) to revive an application will not operate to stay any period for reply that may be running against the application. Therefore, the period for reply to the Notice of Allowance was operative and in effect. Applicants failed to respond to the Notice of Allowance and the application was properly abandoned for failure to submit the issue fees.

The Notice of Allowance was mailed before the original petition under 37 CFR 1.137(b) was filed. Petitioner was aware of the Notice of Allowance. MPEP 711.02 states in part "37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period."

The Notice of Allowance was mailed to the address of record. Petitioner has acknowledged receipt of the Notice. Petitioner's rationale for the petition that the Notice of Allowance was never issued by the Office is clearly in error.

For this reason, the petition filed under 37 CFR 1.181is dismissed.

<u>In regard to the petition under 37 CFR 1.137(b):</u>

A petition for Revival of an International Application For Patent Designating the U.S. Abandoned Unintentionally Under 37 CFR 1.137(b) was filed October 22, 2007 and was dismissed in a decision mailed November 23, 2007. The renewed petition filed December 3, 2007 was granted in a decision mailed December 17, 2007. This decision is <u>vacated</u>.

A review of the record shows that the renewed petition under 37 CFR 1.137(b) should not have been granted at that time since the required reply was payment of the issue and publication fees which had not been paid at the time of that decision. Theses fees were paid on February 3, 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 and publication fees, (2) the petition fee; and (3) an adequate statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application is being referred to the Office of Data Management for processing of the application as a patent.

Charles Pearson
Director, Office of Petitions

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ALEXANDRIA, VA 22313-1450
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JUL -1 2005

In re Application of	:	
Michael Abidin et al.	:	
Serial No. 10/999,133	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO MAKE SPECIAL
For: SURGICAL BLADE PACKAGE	:	

Applicant's petition, filed November 29, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Leonard Bloom
Armstrong, Kratz, Quintos, Hanson
& Brooks, LLP
502 Washington Avenue, Suite 220
Towson, MD 21204

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : July 03, 2008

TO SPE OF : ART UNIT 3677

SUBJECT : Request for Certificate of Correction for Appl. No.: 10/999138 Patent No.: 7356954 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/Victor Batson/

SPE, Art Unit 3677

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August 27, 2007

Patent No. : 7246855 B1
Ser. No. : 10/999143
Inventor(s) : Langmaid, et al.
Issued : July 24, 2007
Title : **RECLINE MECHANISM FOR A CHILD SEAT**
Docket No. : 10000-04 GRA-14 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 1.322.

Respecting the alleged error(s) item 56 in the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with reference(s) considered by the Examiner. However, further consideration will be given your request in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

In view of the foregoing, your request in this matter is denied.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110 or (703) 308-8309

LEMPIA FORMAN LLC
223 W. JACKSON BLVD.
SUITE 620
CHICAGO IL 60606

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DICK, BILLIG & CZAJA, P.L.L.C.
FIFTH STREET TOWERS
100 SOUTH FIFTH STREET, SUITE 2250
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application :
David W. Carroll :
Application No. 10/999,168 : DECISION ON PETITION
Filed: November 29, 2004 :
Attorney Docket No. P374.106.101 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability mailed on May 7, 2007, which set a period for reply of 60 days. Accordingly, this application became abandoned on July 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings, (2) the petition fee of $770.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Publishing Division for further processing in accordance with this decision accepting the late submission of corrected drawings.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Basch & Nickerson LLP
1777 Penfield Road
Penfield, NY 14526

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OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang, et al.	:	
Application No. 10/999,185	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. 1008 073 301 0251	:	FROM RECORD
	:	

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
United States Patent and Trademark Office
P.O. Box 1450
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Howard J. Greenwald, P.C.
70 Linden Oaks, Third Floor
Rochester, NY 14625

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OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang et al.	:	
Application No. 10/999,185	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. XW-765	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 6, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Howard J. Greenwald and all attorneys/agents of record has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Biophan Technologies, Inc.
15 Schoen Place
Pittsford, NY 14534

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ARENT FOX PLLC
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

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DEC 22 2005

OFFICE OF PETITIONS

In re Application of
Hisao Suzuki
Application No. 10/999,190
Filed: November 30, 2004
Attorney Docket No.: 024016-00093

ON PETITION

This is a decision on the petition, filed December 22, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 2, 2005, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2819 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date : December 22, 2005

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Hisao Suzuki
Application No. : 10/999,190
Filed : November 30, 2004

The above-identified application has been assigned Patent No. 6,980,146 and an issue date of December 27, 2005.

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 December 27, 2005:

> "All reference to Patent No. 6,980,146 to HISAO SUZUKI of JAPAN for DIGITAL-ANALOG CONVERTER CIRCUIT appearing in the Official Gazette of December 27, 2005, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, Crystal Park 3-44l (FAX-306-2737)
Deneise Boyd, Crystal Park 2, Suite 1100 (FAX-308-5413)
Mary Louise McAskill, Crystal Park 3-910 (FAX 305-4372)
Niomi Farmer, Crystal Park 3-9l0 (FAX-305-4372)
Mary E. Johnson (Cookie), P/OCS, CM1-6D07
Duane K.Davis, P/OCS, CM1-6A07
Tamara K. Greene, PK3-910

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HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:
Li, et al.	:
Application No. 10/999,216	: DECISION ACCORDING STATUS
Filed: November 30, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 64118.000153	:
For: TRANSPEDICULAR INTERVERTEBRAL	:
DISK ACCESS METHODS AND DEVICES	

This is in response to the petition under 37 CFR 1.47(a), filed August 16, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventor, Frank Nguyen, cannot be located. Specifically, the declaration/statement of facts of Sabrina Chambers of Medtronic Sofamor Danke, which is the former employer of Mr. Nguyen, establishes that despite attempts to locate the inventor through Internet database searches and the U.S. mail that Mr. Nguyen cannot be located. Petitioners have diligently searched for Mr. Nguyen. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

Regarding fees, the current Rule 47 petition fee is $200.00. $130.00 has been charged. Pursuant to petitioners' authorization, deposit account no. 50-0206 will be charged the balance due, which is $70.00.

This application and petition 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 should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Petitions Attorney
Office of Petitions

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FRANK NGUYEN
458 SABLE
RANCHO SANTA MARGARITA, CA 92668

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	:	
Li, et al.	:	
Application No. 10/999,216	:	LETTER
Filed: November 30, 2004	:	
Attorney Docket No. 64118.000153	:	
For: TRANSPEDICULAR INTERVERTEBRAL DISK ACCESS METHODS AND DEVICES	:	

Dear Mr. Nguyen:

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: HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

UNITED STATES PATENT AND TRADEMARK OFFICE

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ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA PA 19103-7013

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MAY 19 2005

REEXAM UNIT

In re Application of	:	
Gail S. Bazzano,	:	DECISION ON PETITION
Appl. No. 10/999,235	:	TO WAIVE TWO MONTH
Filed November 29, 2004	:	DELAY PERIOD
Atty. Dock. No. 6690-10RE	:	

This is a decision on applicant's petition of April, 29, 2005, titled "PETITION UNDER 37 C.F.R. § 1.182 TO WAVE TWO MONTH DELAY PERIOD AFTER ANNOUNCEMENT OF REISSUE APPLICATION IN THE *OFFICIAL GAZETTE*."

The petition is before the Office of Patent Legal Administration for decision.

For the reasons set forth below, the petition is granted.

DECISION

1. This application for reissue was filed on November 29, 2004. The announcement of the reissue filing was published in the *Official Gazette* (O.G.) on May 10, 2005. Office policy normally provides for a two-month delay in examination following the announcement of the filing in the *Official Gazette*. MPEP 1441. Applicant has requested via this petition waiver of the policy set forth in MPEP 1441 as to the delay of examination following the announcement in the O.G. Such waiver is requested in order that examination not be delayed in view of the facts set forth in the petition. Based on those facts, applicant's request will be accommodated and the petition granted

2. The granting of petitioners' request does not close or remove the public's opportunity to protest the reissue application. Should a protest be filed in this application within two months from the date of the O.G. announcement, the examiner is instructed to proceed according to the provisions of 37 CFR 1.291, as well as MPEP §§ 1901.04 and 1901.06.

If the protest is filed after the two month date:

MPEP 1901.04 provides as to protests, in general -

"A protest under 37 CFR 1.291(a) must be submitted prior to the date the application was published or the mailing of a notice of allowance under 37 CFR 1.311, whichever occurs first, and the application must be pending when the protest and application file are brought before the examiner in order to be ensured of consideration....A protest submitted after the mailing of the notice of allowance will not knowingly be ignored if the protest includes prior art documents which clearly anticipate or clearly render obvious one or more claims.... A protest filed after final rejection and complying with 37 CFR 1.291(a) will be considered if the application is still pending when the protest and application are provided to the examiner. However, prosecution will not ordinarily be reopened after final rejection if the prior art cited in the protest is merely cumulative of the prior art cited in the final rejection. If a protest is not submitted within the time period set forth in 37 CFR 1.291(a)(1) it will be acknowledged as set forth in MPEP § 1901.05 only if a self-addressed postcard is included with the protest, and referred to the examiner having charge of the subject matter involved for handling as set forth in MPEP § 1901.06....If, for some reason, the protest of the reissue application cannot be filed within the 2-month period provided by MPEP § 1441, the protest can be submitted at a later time, but the protestor must be aware that reissue applications are "special" and a later filed protest may be received after action by the examiner."

MPEP 1441.01 provides as to protests in reissue -

"Where the protest is submitted after the 2-month period, no petition for entry of the protest under 37 CFR 1.182 is needed with respect to the protest being submitted after the 2 months, unless a final rejection has been issued or prosecution on the merits has been closed for the reissue application. Where the protest is submitted after the 2-month period, the protest may be received after the first Office action by the examiner, since reissue applications are taken up "special." Once the first Office action is mailed (after the 2-month period), a member of the public may still submit pertinent information in the form of a protest under 37 CFR 1.291(a), and the examiner will consider the information submitted in the next Office action, to the extent that such consideration is appropriate."

3. In the event an early determination of allowable subject matter is made by the examiner and made known to applicants, the application will be retained in the Technology Center pending expiration of the two-month delay period, **prior to the mailing of a formal Notice of Allowance.**

CONCLUSION

1. The petition is <u>granted</u>.

2. The application is being forwarded to Technology Center 1600 for immediate examination as soon as practicable.

3. Any further questions regarding the matter of this decision should be directed to the undersigned, at (571) 272-7710.

4. Any questions relating to the merits of the application should be directed to the examiner Evelyn M. Huang, at (571) 272-0686.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

5-19-05
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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

AKIN GUMP STRAUSS HAUER & FELD, LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

In re Application of	:
Gail S. Bazzano et al	:
Serial No.: 10/999,235	: PETITION DECISION
Filed: November 29, 2004	:
Attorney Docket No.: 6690-10RE	:

This is in response to the petition under 37 CFR 1.181, filed September 16, 2006, requesting entry of an amendment after Final rejection, denied entry by the examiner.

BACKGROUND

A review of the file history shows that this is a Reissue application for US Patent 5,721,275. On February 14, 2006, applicants replied to a non-Final Office action by cancelling claims 3 and 19-44, and adding claims 45-62, leaving claims 1-2, 4-18 and 45-62 pending. In an Office action mailed March 30, 2006, the examiner maintained a rejection under 35 U.S.C. 251 for new matter for claims 1 and 17 and extended it to claims 16, 45, 60 and 61 finding that the terms "salts" and "isomers" were not fully and explicitly described or enabled with respect to all isomers and salts of the compounds claimed and referenced US 5,716,625 for evidence. The examiner also maintained a rejection under 35 U.S.C. 103(a) of claims 1-2, 4-9, 12 and 14-18 under 35 U.S.C. 103(a) as unpatentable over Lee '573 in view of CA 84 and Lee CA 79:87435; and of claims 1-2 and 4-18 as unpatentable over Lee '573 in view of CA 84 and Lee CA 79 in further view of Leyden, EP 274104 and also applied these rejections to newly added claims 45-62. The examiner also considered and objected to a first declaration by R. Todd Plott. The action was made Final.

Applicants filed an amendment after Final Office action on June 16, 2006, following several telephone interviews (no examiner record of these interviews can be found). Claims 1, 9 and 46 were proposed to be amended and claims 16-18, 45 and 60-62 canceled. A second affidavit by Plott was also presented. Applicants replied to the rejections of record and argued that the amendments would simplify the issues for appeal, if that were necessary.

The examiner mailed an Advisory Action to applicants on July 11, 2006, indicating non-entry of the amendment as it did not place the application in better form for appeal and attached comments with respect to the second Plott declaration.

A Notice of Appeal was filed on August 21, 2006, which was accompanied by a Request for Pre-Appeal Conference and Review and provided reasons for reconsideration. The amendment after Final Office action was not mentioned therein other than to note its non-entry and its general content. A revised or substitute request was filed September 1, 2006. A Pre-Appeal conference was held September 11, 2006, and the results mailed to applicants on September 12, 2006, indicating that applicants should proceed to the Board.

This petition was filed on September 16, 2006, and requests entry of the amendment filed June 16, 2006. It is noted by applicants that 37 CFR 1.181(f) sets a two month period for filing of a petition complaining of an examiner's action and that this petition was filed approximately one week later than the two month period. However, the two month period is discretionary with the director and this petition, in view of the circumstances and advice given applicants, is considered timely and is being treated on the merits.

DISCUSSION

The purpose of allowing applicants to file an amendment after a Final Office action is to place an application in condition for allowance or to reduce or simplify issues in proceeding to the Board of Patent Appeals and Interferences. In the above instance applicants have provided a proposed amendment after Final Office action which cancels several claims and incorporates the limitations of some of the canceled claims into the independent claims from which they depend. In particular, claims 16-18, 45 and 60-62 were proposed to be canceled and the limitations of claims 18 and 62 were incorporated into claims 1 and 46, respectively. A review of the amendments appears to show that independent claims 1 and 46 are now limited to a single retinoid, tretinoin, exclusive of salts and isomers thereof. Such amendment would appear to reduce the issues on appeal by eliminating the rejection under 35 U.S.C. 251 for new matter based on salts and isomers of the compounds.

In the Pre-Appeal Request for Review applicants seem to acknowledge non-entry of the amendment after Final Office action, but continue to refer to the affidavit accompanying it and seem to suggest, but not specifically argue, that the amendment should have been entered. From the decision of the Panel it is not clear whether the amendment after Final Office action was considered or not, or if considered, to what extent consideration was given. An inquiry of panel members seems to indicate awareness of the amendment, but that little consideration was given to it since it had not been entered.

It is noted that applicants make a contention that the Final Office action was improper or premature due to application of a new reference, but do not specifically request withdrawal of the finality of the action. However, a review of the action shows that a new reference was used only as evidence to support the rejection under 35 U.S.C. 251 for new matter, not to formally reject the claims. In view of this the finality of the Office action is not considered to have been premature.

In summary, the amendment after Final Office action appears to simplify the issues on Appeal and should have been entered. The examiner has given no specific reasons for non-entry. It is noted that this is a reissue application and that a supplemental declaration in accordance with M.P.E.P. 1414 should have been provided with the amendment in order to perfect the amendment and appeal. Applicants are invited to provide such supplemental declaration with the Appeal Brief.

DECISION

The petition to enter the amendment filed June 16, 2006, is **GRANTED**.

In view of the granting of this petition the application will be returned to the Panel for prompt reevaluation of the Pre-Appeal Brief Review Request. A new Panel Decision will be provided in due course.

Applicants remain under obligation to file an appropriate Appeal Brief within the time period provided or take other appropriate action.

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.

George C. Elliott

George C. Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

LAW OFFICE OF STEVEN B. LEAVITT, L.L.P.
130 Meadowcreek
Rockwall TX 75032

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MAY 12 2008

OFFICE OF PETITIONS

In re Application of Martin P. Harris Application No. 10/999,273 Filed: November 29, 2004 Attorney Docket Number: HARM.00001 Title: METHOD AND APPARATUS FOR CONVERTING A CHAIN LINK FENCE	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.137(A)

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a), filed April 7, 2008, to revive the above-identified application.

The petition pursuant to 37 C.F.R. § 1.137(a) is **DISMISSED.**

Petition fee requirement

The fee for filing a petition to revive an unavoidably abandoned application pursuant to 37 C.F.R. § 1.137(a) is set forth in 37 C.F.R. § 1.17(l) as being $510 for a large entity and $255 for a small entity.

There is no record of any fee having been received along with this petition, and the electronic file does not appear to contain an authorization to charge any deficiencies to a Deposit Account. The payment of the required petition fee is a prerequisite to the filing of a petition to revive pursuant to 37 C.F.R. § 1.137. Therefore, consideration of the merits of

the petition before receipt of the filing fee would be premature. See M.P.E.P. 711.03(c)(III)(B)[1]

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[5].

If Petitioner intends to submit payment via credit card, a copy of form PTO-2038 should be included. A copy of this form may be found at: http://www.uspto.gov/web/forms/2038-fill.pdf

The application file does not indicate a change of correspondence address has been filed in this case, although it is noted that Petitioner is not located at the address of record[6]. 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 Address, Patent Form (PTO/SB/122) is submitted for the above-identified

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1 "...[T]he payment of a petition fee to obtain the revival of an abandoned application is a statutory prerequisite to revival of the abandoned application and cannot be waived. In addition, the phrase '[o]n filing' in 35 U.S.C. §41(a)(7) means that the petition fee is required for the filing (and not merely the grant) of a petition under 37 C.F.R. §1.137. See H.R. Rep. No. 542, 97th Cong., 2nd Sess. 6 (1082), *reprinted in* 1982 U.S.C.C.A.N. 770 ('[t]he fees set forth in this section are due on filing the petition'). Therefore, the Office...will not reach the merits of any petition under 37 C.F.R. § 1.137 lacking the requisite petition fee."
2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Although the petition does not list a return address, it is clear that Petitioner is not located at the address of record. On April 25, 2008, the undersigned contacted Petitioner and obtained his address.

application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Alternatively, a form that may be submitted to both revoke a previously granted power of attorney and change the correspondence address may be found at http://www.swensonsdriveins.com/menu.htm

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[7]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: Martin P. Harris
1206 Pinecrest Drive
New Richmond, Wisconsin 54017

---

7 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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JUN 1 8 2008

OFFICE OF PETITIONS

Martin P. Harris
1206 Pinecrest Drive
New Richmond WI 54017

In re Application of	:	
Martin P. Harris	:	
Application No. 10/999,273	:	DECISION ON RENEWED PETITION
Filed: November 29, 2004	:	PURSUANT TO
Attorney Docket Number:	:	37 C.F.R. § 1.137(A)
HARM.00001	:	
Title: METHOD AND APPARATUS FOR	:	
CONVERTING A CHAIN LINK FENCE	:	

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(a), filed May 27, 2008, to revive the above-identified application.

The concurrently submitted Revocation of Power of Attorney with new Power of Attorney and Change of Correspondence Address has been entered and made of record.

This application became abandoned for failure to file a proper response to the Restriction Requirement, mailed April 18, 2007, which set a shortened statutory period to reply for one month. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were received. Accordingly, the above-identified application became abandoned on May 19, 2007. A Notice of abandonment was mailed on November 1, 2007.

An original petition pursuant to 37 C.F.R. § 1.137(a) was filed on April 7, 2008, which was dismissed via the mailing of a decision on May 12, 2008, for failure to include the petition fee.

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to 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 was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this renewed petition, Petitioner has included the petition fee, an election of species, and a showing that the entire period of delay was unavoidable. As such, the first three requirements of Rule 1.137(a) have been met. The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the election of species that was received on May 27, 2008 can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[1]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,273	11/29/2004	Martin P. Harris	HARM.00001

CONFIRMATION NO. 3130

POWER OF ATTORNEY NOTICE

~~Martin P. Harris~~
~~1206 Pinecrest Drive~~
~~New Richmond, WI 51017~~

Law Office of Steven B. Leavitt, LLP
130 Meadowcreek
Rockwall, TX 75032

OC000000030480903

Date Mailed: 06/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2008.

- 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).

/pashanoski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,273	11/29/2004	Martin P. Harris	HARM.00001

CONFIRMATION NO. 3130

POWER OF ATTORNEY NOTICE

Martin P. Harris
1206 Pinecrest Drive
New Richmond, WI 51017

Law office of Steven B. Leavitt, LLP
130 Meadowcreek
Rockwall, TX 75032

OC000000030480903

Date Mailed: 06/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/27/2008.

- 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).

/pashanoski/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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SEP 28 2009

OFFICE OF PETITIONS

FAIN IP LAW P.C. KATY C. FAIN
4801 LANG AVE N.E.
STE. 110
ALBUQUERQUE, NM 87109-4479

In re Application of	:	
Arthur T. JONES, JR.	:	
Application No. 10/999,319	:	DECISION ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 4017.001	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed June 30, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 27, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b).

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks item (3).

With regards to item 3: There is no showing to the satisfaction of the Director that the entire delay was unavoidable. Petitioner asserts incapacitation as the cause of unavoidable delay. A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's

incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) during the period between March 3, 2008 and June 30, 2009. Such a showing must be supported by a statement from petitioner's treating physician, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

Petitioner/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.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition 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 $1620 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).

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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OFFICE OF PETITIONS

LAW OFFICE OF DAVID MCEWING
P.O. BOX 231324
HOUSTON TX 77023

In re Application of	:	
Arthur T. JONES, JR.	:	
Application No. 10/999,319	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 4017.001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 23, 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 August 27, 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 28, 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 $810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178

(October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 $1730 extension of time fee submitted with the petition on February 23, 2010, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded by Treasury Check in the normal course of business.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2856 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.

/dcg/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
WEINSCHENK, et al.	:	
Application No. 10/999,364	:	DECISION ON PETITION
Filed: November 29, 2004	:	TO WITHDRAW
Attorney Docket No. **I1081010.1**	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 3, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peng Chen on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The 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 the undersigned at (571) 272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WOMBLE CARLYLE SANDRIDGE & RICE, PLLC**
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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Lisa K. Jorgenson
STMicroelectronics, Inc.
1310 Electronics Drive
Carrollton, TX 75006

Mail Date: 05/12/2010

Applicant	: Muralidhar Karthik	: DECISION ON REQUEST FOR
Patent Number	: 7616715	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/999,370	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: 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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

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NOV 03 2006
OFFICE OF PETITIONS

HENRY M. FEIEREISEN, LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK NY 10118

In re Application of :
Susanne Gaksch :
Application No. 10/999,373 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. GAKSCH-3 :

This is a decision on the petition, filed November 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2838 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HENRY M. FEIEREISEN LLC
350 FIFTH AVENUE
SUITE 4714
NEW YORK, NY 10118

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NOV 03 2006

OFFICE OF PETITIONS

In re Application of
Susanne Gaksch
Application No. 10/999,373
Filed: November 30, 2004
Attorney Docket No. GAKSCH-3

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed November 2, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 4, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2838 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\999373.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.*

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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FREDERICK W. GIBB, III
Gibb Intellectual Property Law Firm, LLC
844 West Street
SUITE 100
ANNAPOLIS, MD 21401

Mail Date: 04/20/2010

Applicant	: James Howard Eaton	: DECISION ON REQUEST FOR
Patent Number	: 7593194	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,387	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Weaver Austin Villeneuve &
Sampson LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

MAILED

MAR 13 2009

OFFICE OF PETITIONS

In re Application :
Schwartz :
Application No. 10/999,395 : PATENT TERM ADJUSTMENT
Filed: November 29, 2004 :
Dkt. No.: GENSP017D3C1 :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE 37 C.F.R. § 1.705." This matter is being properly treated as an application for patent term adjustment pursuant to 37 CFR 1.705(b). The application for patent term adjustment was timely filed December 1, 2008, along with issue fee payment.

The Determination of Patent Term Adjustment under 35 USC 154(b), mailed September 2, 2008, indicated a patent term adjustment to date of 733 days. Applicant argues that the application is entitled to an adjustment of 947 days, including an adjustment of 214 days under 35 USC 154(b)(2)(A).

Applicant contests the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this 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 ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

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.

With respect to the over 3 year calculation, 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 file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

The requested change of correspondence address submitted January 21, 2009 has not been entered into the record as it fails to satisfy 37 CFR 1.32 and 1.33. Further, there is no indication that the person signing the application for patent term adjustment was ever given a power of attorney by applicant. If the person signing the application for patent term adjustment 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 application for patent term adjustment, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

CC: Michael J. Ferrazano
PO Box 1687
Cupertino, CA 95015-1687

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

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

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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AUG 1 0 2005

OFFICE OF PETITIONS

In re Application of	:
Kim, et al.	: DECISION DISMISSING STATUS
Application No. 10/999,418	: UNDER 37 CFR 1.47(a)
Filed: November 30, 2004	:
Atty. Dkt. No.: CU-4004	:
For: DEVICE FOR CONTROLLING THE	:
OPERATION OF INTERNAL VOLTAGE	:
GENERATOR	:

This decision is in response to the petition under 37 CFR 1.47(a) filed June 6, 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 30, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed January 4, 2005 requiring 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 item (1) set forth above. Petitioners allege joint inventor In Soo Kim cannot be reached

or refused to execute the declaration after having been presented with the application papers.

Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners herein have failed to provide proof of any efforts made to locate the non-signing inventor.

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).

A petition under 37 CFR 1.47 is currently $200.00. Accordingly, the remaining fees due, $70.00, have been charged to Deposit Account No. 12-0400.

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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

LADAS & PARRY LLP
224 SOUTH MICHIGAN AVENUE
SUITE 1600
CHICAGO, IL 60604

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:
Kim, et al.	: DECISION GRANTING STATUS
Application No. 10/999,418	: UNDER 37 CFR 1.47(a)
Filed: November 30, 2004	:
Atty. Dkt. No.: CU-4004	:
For: DEVICE FOR CONTROLLING THE	:
OPERATION OF INTERNAL VOLTAGE	:
GENERATOR	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed October 10, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor In Soo Kim has cannot be reached or located for presentation of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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IN SOO KIM
ROOM 203
117-5, SAMJEON-DONG
SONGPA-GU
SEOUL, KOREA

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JAN 19 2006

OFFICE OF PETITIONS

In re Application of	:
Kim, et al.	:
Application No. 10/999,418	: LETTER
Filed: November 30, 2004	:
Atty. Dkt. No.: CU-4004	:
For: DEVICE FOR CONTROLLING THE	:
OPERATION OF INTERNAL VOLTAGE	:
GENERATOR	:

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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STEPHEN B SALAI ESQ
HARTER SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER NY 14604

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Travers, et al.	:	DECISION ACCORDING STATUS
Application No. 10/999,424	:	UNDER 37 CFR 1.47(a)
Filed: November 30, 2004	:	
Attorney Docket No. 85941.000066	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 1, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on November 30, 2004, without an executed oath or declaration. Accordingly, on January 4, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on April 1, 2005, made timely with a one month extension of time. Accompanying the petition was a declaration executed by inventors Paul Travers, David Vogler, James D. Gresko, Stephen Glaser, and Paul J. Churnetski, with the signature block for Scott Leathersich left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 37 CFR 1.63; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor(s).

On petition, Rule 47 applicant has included a copy of an e-mail from Scott Leathersich, indicating his refusal to sign the instant application. While Rule 47 applicant has not shown that Leathersich was presented with a copy of the application papers (specification, claims, and drawings), it is concluded that Leathersich knew what he was being asked to sign.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided in the petition. Notice of the filing of this application will also be published in the Official Gazette.

Receipt of the $130 petition fee is acknowledged.

The application file is being forwarded to Group Art Unit 2821 for docketing and examination.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SCOTT LEATHERSICH
82 SOUTHERN HILLS CIRCLE
HENRIETTA NY 14467

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JUN 14 2005

OFFICE OF PETITIONS

In re Application of :
Paul Travers, David Vogler, Stepher :
Glaser, Paul J. Churnetski, and Scott :
Leathersich :
Application No. 10/999,424 :
Filed: November 30, 2004
Title: Binocular Virtual Display
Imaging Device

LETTER

Dear Mr. Leathersich:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 USC 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, agent 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 Cliff Congo at (571)272-3207. 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).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

Stephen B. Salai
Harter, Seacrest & Emery
1600 Bausch & Lomb Place
Rochester, NY 14604
Phone: 585-232-6500

UNITED STATES PATENT AND TRADEMARK OFFICE

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KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE CA 92606

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JAN 3 1 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Hwang
Application No. 10/999,470
Filed: November 30, 2004
Title: Transition Forming Machine

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed November 6, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This application was held abandoned March 7, 2005 for failure to timely reply to the non-final Office Action mailed on December 6, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed September 26, 2006.

Petitioner contends the Office Communication mailed on December 6, 2005 was not received. Petitioner states the non-final Office action was returned to the Office.

A review of the record shows that the Notice was properly mailed to the correspondence address of record. The record is not clear that the Notice was not received because petitioner no longer received mailed at the 2 park Plaza address due to the move to the 43 Corporate Park Drive address. Where an application becomes

abandoned as a consequence of a change of correspondence address (the Office action being mailed to the old, uncorrected address and failing to reach the applicant in sufficient time to permit a timely reply) an adequate showing of "unavoidable" delay will require a showing that due care was taken to adhere to the requirement for prompt notification in each concerned application of the change of address (see MPEP § 601.03), and must include an adequate showing that a timely notification of the change of address was filed in the application concerned, and in a manner reasonably calculated to call attention to the fact that it was a notification of a change of address. The lack of notification, or belated notification, to the U.S. Patent and Trademark Office of the change in correspondence address does not constitute unavoidable delay. See MPEP 711.03(c). Nor would the failure to promptly change the correspondence allow for withdrawing the holding of abandonment.

Treatment under 37 CFR 1.137(b) is being held in abeyance until submission of the renewed petition.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KLEIN, O'NEILL & SINGH, LLP
43 CORPORATE PARK
SUITE 204
IRVINE CA 92606

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Hwang :
Application No. 10/999,470 : ON PETITION
Filed: November 30, 2004 :
Title: Transition Forming Machine :

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 14, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned March 7, 2005 for failure to timely reply to the non-final Office Action mailed on December 6, 2005. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed September 26, 2006.

Petitioner asserts that the non-final Office Action mailed on December 6, 2005 was never received. A review of the record indicates the non-final Office Action while addressed properly was returned to the Office for unknown reasons. Based upon petitioner's attestation that he continued to receive mail at the former correspondence address of record when the action was mailed, it is determined petitioner failed to receive the Office communication due to irregularity in the mail.

The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

In light of the submission of a reply to the December 6, 2005 Office Action, this application is being forwarded to Art Unit 3725 for review of the amendment submitted November 6, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of
Karoline Bechtold-Peters et al.
Application No. 10/999,471
Filed: November 30, 2004
Attorney Docket No.: 1/1590

ON PETITION

This is a decision on the petition filed May 3, 2007 under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed October 25, 2006. A shortened statutory period of three months was set. Accordingly, a Notice of Abandonment was mailed July 19, 2007, after the filing of the instant petition.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $1590.00 extension of time fee submitted with the petition on May 3, 2007, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited to counsel's deposit account no. 02-2955.

---

[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). 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)).

This matter is being referred to Technology Center 1616 for appropriate action on the amendment filed May 3, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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1 FW

J.C. PATENTS
4 VENTURE, SUITE 250
IRVINE, CALIFORNIA 92618
TEL.: (949) 660-0761
FAX: (949) 660-0809
E-MAIL: jcpi@email.msn.com

CERTIFICATE OF TRANSMISSION

April 2, 2008

Atty Docket No.	:	JCLA14194
Patent No.	:	7,102,585
Issue Date	:	September,05, 2006
Appl. No.	:	10/999,472
Pages	:	Cover + 12

BY FACSIMILE ONLY

Fax No.	:	571-273-8300
Attention	:	**MAIL STOP Office Of Petition** Commissioner for Patents
From	:	Jiawei Huang, Reg. No. 43,330
MESSAGE	:	Enclosed herewith are: [x] Petition under 37 CFR 1.323 with the Certificate of Correction in 2 pages. [x] Petition under 37 CFR 1.182 with corrected executed Declaration and Power of Attorney in 3 pages. [x] Request for Corrected Notice of Recordation in 7 pages.

Sir:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on **April 2, 2008** at the above indicated fax number.

Sign by: _____
Michelle Chang

Note: This facsimile transmission is intended only for the use of the individual or entity to which it is addressed, and may contain information that is privileged, confidential and exempt from disclosure under applicable law. If the reader is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this transmission in error, please kindly notify us immediately, and return the original message to us at the above address. We greatly appreciate your cooperation.

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IN THE UNITED STATE PATENT AND TRADEMARK OFFICE

In re application of : HUANG-CHANG HSIU et al.
Application No. : 10/999,472
Filed : November 29,2004
For : INTEGRATED FEED HORN DEVICE

PETITION UNDER 37 C.F.R. §1.182

ATTN.: Office of the Petition
Commissioner for Patent
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests to correct the inventors' name of the above-identified application as follows:

1st inventor from Huang-Chang Hsiu to **Huang, Chang-Hsiu**
2nd inventor from Jan-Cheng Geng to **Jan, Cheng-Geng**
3rd inventor from Lai-Chung Min to **Lai, Chung-Min**

This mistake was made by clerical typo when preparing the documents and was an inadvertent error without deceptive intent. Enclosed herewith are the corrected executed Declaration and Power of Attorney and the Assignment with the new Recordation Cover Sheet.

The Commissioner is authorized to charge the petition fee ($130) and any other required fees in connection with the filing of this paper to account No. 50-0710 (Order No. JCLA14194).

Respectfully submitted,

Date: 4-2-2008

Jiawei Huang
Registration No. 43,330

J.C. Patents
4 Venture, Suite 250
Irvine, California 92618
Tel.: (949) 660-0761

04/04/2008 VBUI11 00000018 500710 10999472
01 FC:1464 130.00 DA

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PWNC-CO-0080-USXX
14194-US-PA

COMBINED DECLARATION AND POWER OF ATTORNEY

As the below named inventor, I hereby declare that:
My residence, post office address and citizenship are as stated below next to my name and that I believe I am an original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

INTEGRATED FEED HORN DEVICE

the specification of which

_X_ is attached hereto.
___ was filed on _____
as Application Serial No._____ and was amended on_____.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to the patentability of this application in accordance with Title 37, Code of Federal Regulations, § 1.56(a).

I hereby claim foreign priority benefits under Title 35, Untied States Code, § 119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:
Prior Foreign Application(s):

Number	Country	Date Filed	Yes	No
93126965	Taiwan, R.O.C	2004/9/7	X	

I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

Jiawei Huang (Reg. No. 43,330)
Belinda Lee (Reg. No. 46,863)
Charles Liu (Reg. No. 53,226)

SEND CORRESPONDENCE TO:

J.C. Patents, Inc.
4 Venture, Suite 250,
Irvine, CA 92618
(949) 660-0761

DIRECT TELEPHONE CALLS TO:
(Name and telephone number)

Jiawei Huang
(949) 660-0762

PAGE 3/13 * RCVD AT 4/2/2008 6:28:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:2738300 * CSID:949 6600809 * DURATION (mm-ss):02-34

PWNC-CO-0080-USXX
14194-US-PA

COMBINED DECLARATION AND POWER OF ATTORNEY CONTINUED

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patents issued thereon.

Signature: Huang, Chang-Hsiu Date: 10/6'04

Sole or First Joint Inventor: ~~Huang-Chang Hsiu~~ Huang, Chang-Hsiu x Huang, Chang-Hsiu.

Citizenship: Taiwan, R.O.C.

x Date 11/28'07

Residence and Post Office Address: c/o 21F, No. 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei Hsien 221, Taiwan, R.O.C.

Signature: Jan, Cheng-Geng Date: 10/7'04

Second Joint Inventor (if any): ~~Jan-Cheng Geng~~ Jan, Cheng-Geng x Jan, Cheng-Geng

Citizenship: Taiwan, R.O.C.

x Date 11/30'07

Residence and Post Office Address: c/o 21F, No. 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei Hsien 221, Taiwan, R.O.C.

Signature: Lai Chungmin Date: 10/6/2004

Third Joint Inventor (if any): ~~Lai-Chung Min~~ Lai, Chung-Min x Lai, Chungmin

Citizenship: Taiwan, R.O.C.

x Date 2007.11.27

Residence and Post Office Address: c/o 21F, No. 88, Sec. 1, Hsin Tai Wu Rd., Hsichih, Taipei Hsien 221, Taiwan, R.O.C.

PAGE 4/13 * RCVD AT 4/2/2008 6:28:24 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/0 * DNIS:2738300 * CSID:949 6600809 * DURATION (mm-ss):02-34

PATENT

Attorney Docket No.: JCLA14194

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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APR 02 2008

In Re Application of	:	HUANG-CHANG HSIU et al.
For	:	INTEGRATED FEED HORN DEVICE
Filing Date	:	November 29, 2004
Application No.	:	10/999,472
Issue Date	:	September 05, 2006
Patent No.	:	7,102,585

REQUEST FOR CETIFICATE OF CORRECTION
Under 37 CFR 1.323

MAIL STOP Certificates of Correction
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Enclosed for filing under 37 C.F.R. 1.323 is a Certificate of Correction in duplicate in connection with the above-identified application.

The mistake to be corrected is of clerical nature and the correction does not constitute new matter or require reexamination. More specifically, the inventors' name of the above-identified application (patent) appeared as Huang-Chang Hsiu ; Jan-Cheng Geng and Lai-Chung Min, on the Assignment filed on November 29, 2004 and on the front page of patent No. 7,102,585. They should be **Huang, Chang-Hsiu ; Jan, Cheng-Geng and Lai, Chung-Min**. This mistake was made due to clerical typo when preparing the document. Thus, correction as shown in the attached Certificate of Correction (Form PTO/SB/44) is requested.

Commissioner is authorized to charge the certificate of correction filing fee in the amount of $ 100 or any other required fees in connection with the filing of this paper to account No. 50-0710 (Order No. JCLA14194).

Respectfully submitted,
J.C. PATENTS

Dated: 4-2-2008

By: [signature]
Jiawei Huang
Registration No. 43,330

Correspondence Address:
4 Venture, Suite 250
Irvine, CA 92618
Tel: (949) 660-0761

04/04/2008 VBUI11 00000018 500710 10999472
02 FC:1811 100.00 DA

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APR 02 2008

Docket No.: JCLA14194

PTO/SB/44 (02-01)
Approved for use through 01/31/2004. 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 : **7,102,585**
DATED : **September 05, 2006**
INVENTOR(S) : **HUANG-CHANG HSIU** et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please correct inventors' name on item (75) as HUANG, CHANG-HSIU ; JAN, CHENG-GENG and LAI, CHUNG-MIN

PATENT NO. 7,102,585

MAILING ADDRESS OF SENDER:
4 Venture, Suite 250
Irvine, CA 92618

No. of additional copies

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.

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

PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Silvia Allegro-Baumann	: DECISION ON REQUEST FOR
Patent Number	: 7653205	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,474	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1396** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

October 30, 2007

D. Kent Stier
MERCHANT & GOULD P.C.
P. O. Box 2903
Minneapolis, MN 55402-0903

Patent No.: 7,272,588 B2
Application No.: 10/999483
Inventor(s): Gary Marr
Issued: September 18, 2007
Title: **SYSTEM, METHODS, AND COMPUTER-READABLE MEDIA FOR GENERATING SERVICE ORDER COUNT METRICS**

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

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

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

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JUN 17 2008

OFFICE OF PETITIONS

In re Patent No. 7,272,588 :
Issue Date: September 18, 2007 :
Application No. 10/999,483 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. 60027.0428US01/BS :

This is a decision on the petition filed November 30, 2007, 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 "AT&T BLS Intellectual Property, Inc., formerly known as AT&T Intellectual Property, Inc., formerly known as Bellsouth Intellectual Property Corporation, Wilmington, DE (US)."

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 Microsoft Corporation to AT&T BLS Intellectual Property, Inc., formerly known as AT&T Intellectual Property Inc., formerly known as Bellsouth Intellectual Property Corporation was recorded on September 24, 2007, **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.

Further, the assignment change noted above was listed as a name change, however, the original assignment recorded November 30, 2004 was from the inventor, Gary Marr, to Bellsouth Intellectual Property Corporation. It is not clear why Microsoft Corporation is listed as the assignor in the September 24, 2007 change of name.

Telephone inquiries concerning this decision on petition should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

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MAR 10 2009

OFFICE OF PETITIONS

In re Patent No. 7,272,588 :
Issue Date: September 18, 2007 :
Application No. 10/999,483 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. 60027.0428US01/BS 040235 :

This is a decision on the Request for Certificate of Correction filed November 7, 2008, which is being treated as a renewed 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 "AT&T BLS Intellectual Property Inc., f/k/a AT&T Intellectual Property , Inc., Wilmington, DE (US)."

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 Microsoft Corporation to AT&T BLS Intellectual Property, Inc., Formerly Known As AT&T Intellectual Property Inc., Formerly known As Bellsouth Intellectual Property Corporation, was recorded on September 24, 2007, **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.

This is the same reason for dismissal of the first petition filed November 30, 2007. It is noted the renewed petition was not styled as a renewed petition under 37 CFR 3.81(b) but was merely a request for certificate of correction that does not appear to address the noted problems with petitioner's first petition.

Telephone inquiries concerning this decision on petition should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Merchant & Gould P.C.
P.O. Box 2903
Minneapolis MN 55402-0903

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MAY 14 2009

OFFICE OF PETITIONS

In re Patent No. 7,272,588 :
Issue Date: September 18, 2007 :
Application No. 10/999,483 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. 60027.0428US01/BS 040235 :

This is a decision on the Renewed Petition Under 37 CFR 1.322, filed April 8, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The petition filed November 7, 2008 was dismissed in a decision mailed March 10, 2009 for requesting the name of the assignee that was recorded after the date of issuance of the patent. The assignee name requested in the instant renewed petition, to Bellsouth Intellectual Property Corporation, was recorded before issuance of the patent.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Carl Friedman
Petitions Examiner
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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FEB 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Eric M. Lunt	:	
Application No. 10/999,490	:	DECISION ON PETITION
Filed: November 30, 2004	:	TO WITHDRAW
Attorney Docket No. FEED-001/00US/306183-2001	:	FROM RECORD

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, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish, LLP has been revoked by the assignee of the patent application on November 5, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK KIRKLAND, ESQ.
FISH & RICHARDS, PC
500 ARGUELLO STREET
SUITE 500
REDWOOD CITY, CA 94063

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Eric M. Lunt	: DECISION ON REQUEST FOR
Patent Number	: 7640184	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,490	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOGAN & HARTSON L.L.P.
1999 AVENUE OF THE STARS
SUITE 1400
LOS ANGELES CA 90067

COPY MAILED

MAR 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Masaki Kotani	:	
Application No. 10/999,527	:	DECISION GRANTING PETITION
Filed: November 29, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 81710.0288	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 15, 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 January 10, 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 Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2854 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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

1-16-09

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Patent No. : 7,295,320
Ser. No. : 10/999,532
Inventor(s) : Henrik Ostlin, et. al.
Issued : November 13, 2007
Title : DETECTOR ARRANGEMENT BASED ON SURFACES PLASMON RESONANCE
Docket No. : HO-P02489US1

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

Melissa L. Sistrunk
Fulbright & Jaworski LLP
Fulbright Tower
1301 McKinney, Suite 5100Houston, Texas 77010-3095

ej

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

Jay Q Knobloch
Brinks, Hofer, Gilson & Lione
P.O. Box 10395
Chicago Il 60610

In re Application of:
Ransom
Appl. No.: 10/999,534
Filed: November 30, 2004
For: System and Method for Assigning an Identity to an Intelligent Electronic Device

DECISION ON PETITION UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on 10 November 2009, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on 4 August 2009 be expunged from the record as the information was identified as being under a protective order after it was filed. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application is not currently allowed or abandoned as the November 10, 2009 request for continued examination withdraws the notice of allowance. 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. It should be noted that while the information in question has been found to not be material to the patentability of the claims the submission of additional references on November 10, 2009, may lead to the information in question being material. 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 13 November 2007 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 removed from the file. **The information in question has been closed to public viewing pending the resubmission of a second petition thus allowing the examiner to determine if the material is material to the patentability of the claims.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612. A second point of contact is Kim Huynh at (571) 272-4147.

Tod Swann, QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/999,534	11/30/2004	Douglas S. Ransom	6270/150 (CLIENT REF. NO.	6616

46260 7590 04/27/2010
BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER
TRUONG, THANHNGA B

ART UNIT	PAPER NUMBER
2438	

MAIL DATE	DELIVERY MODE
04/27/2010	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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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/999,534	11/30/2004	Douglas S. Ransom	6270/150 (CLIENT REF. NO.	6616

46260 7590 04/27/2010
BRINKS HOFER GILSON & LIONE/PML
PO BOX 10395
CHICAGO, IL 60610

EXAMINER
TRUONG, THANHNGA B

ART UNIT	PAPER NUMBER
2438	

MAIL DATE	DELIVERY MODE
04/27/2010	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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Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, Illinois 60610

(For Applicant)

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APR 26 2010

CENTRAL REEXAMINATION UNIT

Gerald E. Hespos
Casella & Hepos LLP
274 Madison Avenue, Suite 1703
New York, NY 10016

(Courtesy Copy)

In re Application of:	:	**DECISION GRANTING**
Ransom et al.	:	**PETITION TO REPLACE**
Application No. 10/999,534	:	**PROTECTED DOCUMENT**
Filing Date: November 30, 2004	:	**SUBMITTED AUGUST 4, 2009**
Attorney Docket No.: 6270-150	:	**WITH REDACTED VERSION**

This is a decision on applicant's April 9, 2010 petition paper entitled "Petition to Return and Replace Paper Pursuant to 37 C.F.R. §1.182" (the "Petition"). The decision also addresses a third party's (E.I. Electronics) December 22, 2009 paper entitled "Petition under 37 C.F.R. 1.183."

The papers are before the Office of Patent Legal Administration.

The petition is **granted**. The redacted form of the Bingham report filed April 9, 2010, and the substitute form PTO-1449 reflecting the redaction are accepted for entry into the present application. The version of the Bingham report (subject to protective order) submitted August 4, 2009 and the accompanying form 1449 are being expunged from the record of the application.

FEES

The petition fee of $400 pursuant to 37 CFR 1.17(f) for the April 9, 2010 petition under 37 CFR 1.182 was charged on April 9, 2010.

The petition fee of $400 pursuant to 37 CFR 1.17(f) for the December 22, 2009 petition under 37 CFR 1.183 was charged to third party's Deposit Account No. 03-1030, as authorized on page 3 of the petition.

DECISION

On August 4, 2009, applicant filed an information disclosure statement (IDS) which cited and provided a copy of a document referred to as the "Bingham Report" and denoted as item G91 on an accompanying form PTO-1449.

On November 10, 2009, applicant petitioned under 37 C.F.R. § 1.59(b) and MPEP 724.05(I) to expunge information inadvertently not submitted under seal pursuant to MPEP 724.02.

Petitioner requested therein that pages 57-71 of a document (referred to as the "Bingham Report") submitted as part of an information disclosure statement submitted August 4, 2009, and denoted as G91 on the accompanying form 1449 be expunged from the record. Petitioner stated that the information is subject to a protective order, the information had not been made public, and petitioner committed to retain the information for the period of the patent.

On November 30, 2009, the Office dismissed the petition to expunge as being premature.

On December 22, 2009, third party E.I. Electronics filed a paper entitled "Petition under 37 C.F.R. § 1.183" requesting the expungement of pages 57-71 of the Bingham report. To support its request, E.I. Electronics provided a copy of a decision by the United States District Court for the Northern District of Illinois, Eastern Division issued December 14, 2009. The December 14, 2009 decision granted relief from asserted violations of a protective order that had been issued in the ongoing litigation[1] between the assignee (Square D Company) of the present application and E.I. Electronics and directed that the above-mentioned document be expunged from a list of Office proceedings - including the present 10/999,534 application.

As an initial matter, it is noted that the petition of the litigation defendant is not entitled to entry under the rules – see 37 CFR § 1.99, 1,291, and 1.292. The litigation defendant failed to suggest any provision of the regulations which could provide a basis for entry of its petition, and the Office can identify none. Thus, by rule, the litigation defendant, E.I. Electronics, is not entitled to consideration of the December 22, 2009 petition. Pursuant to 37 CFR 1.183, however, "[i]n an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed." In the present instance, the December 22, 2009 petition stated at pages 2-3 that the December 14, 2009 court order (attached as Exhibit C to the December 22, 2009 petition under 37 CFR 1.183) directs the Office to expunge pages 57-71 of the Bingham Report from all Office records, and specifically mentions the instant application. In order to comply with the court order to protect the rights of the litigation defendant, the interests of justice require that the application entry right rules be *sua sponte* waived, and the Office is waiving the rules in order to enter and consider the litigation defendant's petition paper. The petition paper was presented solely to assert the third party's rights in protecting the confidentiality of its materials and in no way deals with the merits of the present application.

---

[1] *Square D Company v. EI Electronics, Inc.*, 1:06-cv-5079 (N.D. Ill.)

On April 9, 2010, applicant, in order to comply with the court order, filed a petition requesting expungement from the record, without consideration by the examiner, of pages 57-71 of the Bingham report that was submitted as part of a August 4, 2009 information disclosure statement, and denoted as G91 on the accompanying form PTO-1449. Applicant proposed to effect the expungement by means of replacing the originally submitted version of the Bingham report with a version that eliminates the pages that are subject to the protective order (pages 57-71). In the present petition, applicant stated that:

i) the replacement copy of the Bingham Report is identical to "the originally submitted document except for the removal of pages 57-71,"
ii) the substitute Form 1449 is identical except that the annotation of G91 has been changed to reflect that only specific pages are now included, and
iii) the removed pages of the Bingham report are not material to patentability.

In view of the terms of the protective order, the irreparable harm to the litigation defendant that would be caused by public disclosure of the protected materials, and the facts and circumstances in this instance as set out above, the applicant's petition under 37 CFR 1.182 to replace the document subject to protective order with a version that is not subject to the protective order is granted.

Since the present application has been published, a one-time courtesy copy of this decision is being sent to third party E.I. Electronics.

ADDITIONAL DISCUSSION

This decision does not relieve applicant of the duty to disclose to the Office information applicant is aware of which is material to patentability pursuant to 37 CFR 1.56, regardless of whether the "material" information can be classified as a trade secret, or as proprietary material, or whether it is subject to a protective order. MPEP § 724 sets forth procedures designed to enable the Office to ensure as complete an application or patent file wrapper as possible insofar as "material" information is concerned, while preventing unnecessary public disclosure of trade secrets, proprietary information, and information subject to a protective order. Also, such information can be redacted to the extent deemed appropriate to satisfy the duty to disclose. Should a situation arise where the duty to disclose is in conflict with the protective order (i.e. if the disclosure of protected information would be needed in order to comply with applicant's duty), applicant should approach the court for relief from the protective order.

CONCLUSION

1. The relief requested in the applicant's petition **is granted** to (a) expunge the August 4, 2009 Bingham report identified as item G91 on the accompanying form 1449 and (b) accept a replacement (submitted April 9, 2010) redacted to eliminate the protected material.

2. The relief requested in the applicant's petition **is granted** to replace the August 4, 2009 Form 1449 (listing the submitted documents) with the April 9, 2010 Form 1449.

3. As the documents to be expunged have already been made part of the Image File Wrapper (IFW) system and cannot be physically returned, expungement is effected by permanently sealing the documents identified above by closing the documents in the IFW and marking them as non-public.

4. Inquiries regarding the present decision may be directed to Pinchus M. Laufer, Legal Advisor, at (571) 272-7726, or, in his absence, to Susy Tsang-Foster, Legal Advisor at (571) 272-7711.

Kenneth M. Schor
Senior Legal Advisor
Office of Patent Legal Administration

UNITED STATES PATENT AND TRADEMARK OFFICE

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FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of Bradley A. Hare et al Application No. 10/999,539 Filed: November 30, 2004 Attorney Docket No. 18554-028001	: : : : : :	DECISION ON PETITION

This is a decision on the paper filed December 9, 2008 entitled: "REQUEST TO TREAT OFFICE ACTION MAILED OCTOBER 18, 2007 AS NON-FINAL OR, IN THE ALTERNATIVE, PETITION TO REVIVE APPLICATION UNDER 37 CFR § 1.137(b) AND FOR WAIVER OF PETITION FEES."

The request to treat the Office action mailed October 18, 2007 as a non-final is dismissed because, in order for applicant to request supervisory review of the Office action, the request had to be filed when the application was pending. The application was abandoned as a matter of law on April 19, 2008. Therefore, the request is moot.

As to the petition under 37 CFR 1.137(b):

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 18, 2007, is accepted as having been unintentionally delayed.

In view of the granting of the petition under 37 CFR 1.137(b), the request for waiver of the petition fee is dismissed. Note 37 CFR 1.17(m).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3737 for appropriate action by the Examiner in the normal course of business on the reply received December 9, 2008 and the amendment of January 18, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 22 2009

OFFICE OF PETITIONS

In re Application of	:	
Bradley A. Hare, et al.	:	
Application No. 10/999,539	:	DECISION ON PETITION
Filed: November 30, 2004	:	TO WITHDRAW
Attorney Docket No. 18554-0028001	:	FROM RECORD
	:	

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 20, 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 Sean P. Daley on behalf of all attorneys of record who are associated with this application. All attorneys/agents associated with this application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely reply to the outstanding Office action mailed March 6, 2009.

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: OMNISONICS MEDICAL TECHNOLOGIES, INC
66 CONCORD STREET
WILMINGTON, MA 01887

cc: OMNISONICS MEDICAL TECHNOLOGIES, INC.
C/O JOHN AQUINO (BANKRUPTCY TRUSTEE)
ANDERSON AQUINO, LLP
240 LEWIS WHARF
BOSTON, MA 02110

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,539	11/30/2004	Bradley A. Hare	18554-028001

CONFIRMATION NO. 6576

POWER OF ATTORNEY NOTICE

26161
FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000037843871

Date Mailed: 09/17/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

- 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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SEP 18 2006
OFFICE OF PETITIONS

Spencer P. Thornton
5070 Villa Crest Drive
Nashville TN 37220

In re Application of
Thornton et al
Application No. 10/999,567
Filed: November 30, 2004
Title of Invention: Method of Treating
Presbyopia and Other Eye Conditions

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed May 18, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on December 30, 2004. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on March 1, 2005. A Notice of Abandonment was mailed on May 12,2006..

The statement of unintentional delay presented in the petition does not comply with the current rule. Pursuant to 37 CFR 1.137(b)(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*" is required. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

Petitioner submitted a four (4) 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 October 5, 2005. Petitioner is ineligible for any extensions of time. The $795.00 will be refunded.

However, the Notice to File Missing Parts required petitioner submit $200.00 for three independent claims over three. The current fee for independent claims in excess of three is $100 per claim. Accordingly, deposit account 18-2284 will be charged $300.00

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application and review of the declaration submitted on May 18, 2006.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

cc: DLA Piper Rudnick
P.O. Box 64807
Chicago, Illinois 60664-0807

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OFFICE OF PETITIONS

WILMERHALE/NEW YORK
399 PARK AVENUE
NEW YORK NY 10022

In re Patent No. 7,587,347
Issued: September 8, 2009
Application No. 10/999,571
Filed: November 30, 2004
Attorney Docket No. 290289.124 US2

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on 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 on November 6, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 745 days to 1170 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, considering the 223 days of overlap, is adjusted by one thousand one hundred seventy (1170) days and 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 Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy (1170)** 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 Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,587,347 B2

DATED : September 8, 2009

INVENTOR(S) : Kenneth C. Griffin

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 (745) days

Delete the phrase "by 745 days" and insert -- by 1170 days--

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NEW YORK, NY 10022

Mail Date: 04/20/2010

Applicant	: Kenneth C. Griffin	: DECISION ON REQUEST FOR
Patent Number	: 7587347	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1595** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAY 19 2010

OFFICE OF PETITIONS

WILMERHALE/NEW YORK
399 PARK AVENUE
NEW YORK NY 10022

In re Patent No. 7,587,347	:	DECISION ON REQUEST FOR
GRIFFIN et al.	:	RECONSIDERATION OF
Issue Date: September 8, 2009	:	PATENT TERM ADJUSTMENT
Application No. 10/999,571	:	AND
Filed: November 30, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 290289.124US2	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 6, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting correction of the patent term adjustment indicated on the above-identified patent.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.** The term of the above-identified patent is extended or adjusted by **one thousand one hundred seventy (1170) days**.

On November 6, 2009, patentee submitted a petition under 37 CFR 1.705(d) and fee. On March 1, 2010, patentee filed a Request for Recalculation of Patent Term Adjustment in View of *Wyeth*. On March 2, 2010, the Office mailed a decision granting the petition under 37 CFR 1.705(d) to the extent that a certificate of correction would be issued indicating that the term of the patent was extended or adjusted by 1170 days. On April 20, 2010, the Office mailed a "DECISION ON REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" indicating that the patent term adjustment had been determined to be 1595 days.

The Office notes that the decision of April 20, 2010, was issued in error as it accorded patentee 425 more days of patent term adjustment than were warranted. Accordingly, the decision of April 20, 2010, is withdrawn. The present decision supersedes the decision mailed on April 20, 2010.

The Office has determined that the patent term adjustment for the above-identified patent is **1170 days**. The 425 additional days of adjustment will be removed.

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, patentee 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 § 1.136.

The Office acknowledges the previous submission of the required fee of $200.00 set forth in 37 CFR 1.18(e).

This matter is being referred 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 **1170 days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,587,347 B2

DATED : Sept. 8, 2009 **DRAFT**

INVENTOR(S) : Griffin 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 745 days

Delete the phrase "by 745 days" and insert – by 1170 days--

Day : Monday
Date: 5/17/2010

PALM INTRANET

Time: 13:56:42

PTA Calculations for Application: 10/999571			
Application Filing Date:	11/30/2004	PTO Delay (PTO):	1317
Issue Date of Patent:	09/08/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	147
Post-Issue Petitions:	0	Total PTA (days):	1170
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
76	05/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		425	
71	04/17/2010	PETITION DECISION - GRANTED			
70	03/01/2010	PETITION ENTERED			
69	03/09/2010	POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION			
68	03/09/2010	POST ISSUE COMMUNICATION - CERTIFICATE OF CORRECTION			
67	03/09/2010	EMAIL NOTIFICATION			
66	03/02/2010	MAIL-RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
65	03/01/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
65	03/01/2010	RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ISSUE			
64	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	425		
64	02/28/2010	ADJUSTMENT OF PTA CALCULATION BY PTO			
63	11/06/2009	PETITION ENTERED			
62	09/08/2009	RECORDATION OF PATENT GRANT MAILED			
61	08/20/2009	EMAIL NOTIFICATION			
60	08/19/2009	ISSUE NOTIFICATION MAILED			
59.5	09/08/2009	PTA 36 MONTHS	648		
59	09/08/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
58	08/10/2009	EXPORT TO FINAL DATA CAPTURE			
57	08/07/2009	DISPATCH TO FDC			
56	08/04/2009	RESPONSE TO REASONS FOR ALLOWANCE			
		APPLICATION IS CONSIDERED READY FOR			

55	08/05/2009	ISSUE			
54	08/04/2009	ISSUE FEE PAYMENT VERIFIED			
53	08/04/2009	ISSUE FEE PAYMENT RECEIVED			
52	06/08/2009	FINISHED INITIAL DATA CAPTURE			
46	05/05/2009	MAIL NOTICE OF ALLOWANCE			39
45	04/29/2009	EXAMINER'S AMENDMENT COMMUNICATION			
44	04/29/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
43	04/29/2009	ISSUE REVISION COMPLETED			
42	04/29/2009	DOCUMENT VERIFICATION			
41	04/27/2009	NOTICE OF ALLOWABILITY			
40	02/20/2009	DATE FORWARDED TO EXAMINER			
39	12/22/2008	RESPONSE AFTER NON-FINAL ACTION		86	31
38	12/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	11/26/2008	MISCELLANEOUS INCOMING LETTER			
36	12/05/2008	EMAIL NOTIFICATION			
35	12/05/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
34	12/01/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
33	07/02/2008	ELECTRONIC REVIEW			
32	06/27/2008	EMAIL NOTIFICATION			
31	06/27/2008	MAIL NON-FINAL REJECTION	669		-1
30	06/23/2008	NON-FINAL REJECTION			
25	04/13/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
24	03/13/2008	CASE DOCKETED TO EXAMINER IN GAU			
23	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
22	10/15/2007	FLAGGED FOR 5/25			
21	08/21/2007	CASE DOCKETED TO EXAMINER IN GAU			
20	04/13/2007	REFERENCE CAPTURE ON IDS			
19.7	04/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	04/13/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	11/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
17	09/13/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			

16	09/13/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	10/03/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
14	05/27/2005	APPLICATION RETURN FROM OIPE			
13	05/31/2005	APPLICATION IS NOW COMPLETE			
12	05/27/2005	APPLICATION RETURN TO OIPE			
11	05/27/2005	APPLICATION DISPATCHED FROM OIPE			
10	05/31/2005	APPLICATION IS NOW COMPLETE			
9	05/20/2005	ADDITIONAL APPLICATION FILING FEES		61	7
8	05/20/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/20/2004	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
6	11/30/2004	PGPUBS NONPUB REQUEST			
4	12/10/2004	CLEARED BY OIPE CSR			
3	12/10/2004	CASE CLASSIFIED BY OIPE			
2	12/10/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	11/30/2004	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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DIANA HOUSTON
SMITH & NEPHEW, INC.
1450 BROOKS ROAD
MEMPHIS, TN 38116

Mail Date: 04/21/2010

Applicant	: N. Kelley Grusin	: DECISION ON REQUEST FOR
Patent Number	: 7655009	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,572	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
10/999,579	11/30/2004	3611	460	14269.0011US01	1	3	1

CONFIRMATION NO. 3343

CORRECTED FILING RECEIPT

OC000000015779110

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Date Mailed: 04/19/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Manuel Jane Santamaria, Palau De Plegamans, SPAIN;

Assignment For Published Patent Application

Jane, S.A., Palau De Plegamans, SPAIN

Power of Attorney: The patent practitioners associated with Customer Number **23552**.

Domestic Priority data as claimed by applicant

Foreign Applications

SPAIN U200302776 12/02/2003

If Required, Foreign Filing License Granted: 01/21/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US10/999,579

Projected Publication Date: 06/02/2005

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Infant pushchair wheel support

Preliminary Class

280

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.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 07/20/2010

Applicant	: Alexander A. Maltsev	: DECISION ON REQUEST FOR
Patent Number	: 7649861	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 10/999,592	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **716** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/20/2010

Applicant	: Stephen R. Carter	: DECISION ON REQUEST FOR
Patent Number	: 7634522	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/999,595	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

MAILED

MAR 13 2009

Technology Center 2100

In re Application of: Rick S. SEELER	)	
Application No. 10/999,599	)	DECISION ON PETITION FOR
Attorney Docket No. 6067-01600	)	SUPERVISORY REVIEW REGARDING
Filed: 11/30/2004	)	FINALITY OF RESTRICTION
For: APPLYING TYPE FITTING ACROSS	)	REQUIREMENT UNDER 37 CFR
GROUPED TEXT FRAMES IN A PAGE	)	§1.144
LAYOUT APPLICATION		

This is in response to the petition under 37 CFR §1.144 filed on January 15, 2009, requesting supervisory review of the finality of a restriction requirement mailed on December 27, 2006. Note, a petition under 37 CFR §1.144 will not be considered if reconsideration of the requirement was not previously requested.

The petition is **GRANTED**.

RELEVANT PROSECUTION HISTORY

(1) A restriction requirement was mailed on December 27, 2006, in which claims 1-110 were subject to restriction requirement.

(2) On January 29, 2007, a response to the restriction requirement was filed in which Applicant provisionally elected with traverse the invention of Group I (claims 1-32 and 70-85). Applicant provided reasons in support of the traversal, including a discussion regarding a proper restriction for inventions disclosed as subcombinations usable together in a single combination as well as a request for reconsideration of the requirement.

(3) On April 17, 2007, the Examiner issued a first office action on the merits, in response to Applicant's election, wherein claims 33-69 and 86-110 were withdrawn. This office action determined the requirement for restriction to be proper and therefore made the requirement FINAL.

(4) On January 15, 2009, the instant petition was filed by Petitioner, under 37 CFR §1.144.

RELIEF REQUESTED

The instant petition under 37 CFR § 1.144 requests the following relief:

(1) withdrawal of the restriction requirement of March 10, 2005; and
(2) as a result of item (1), examination of all pending claims.

BASIS

Petitioner provides various arguments in support of the withdrawal of the restriction requirement including reference to M.P.E.P. § 803 which states in part:

> If the search and examination of **>all the claims in an< application can be made without serious burden, the examiner must examine *>them< on the merits, even though **>they include< claims to independent or distinct inventions.

Note, M.P.E.P. § 806.05(a) states:

> Combination and Subcombination**
> A combination is an organization of which a subcombination or element is a part.

In addition, M.P.E.P. § 806.05(d), sets forth:

> Two or more claimed subcombinations, disclosed as usable together in a single combination, and which can be shown to be separately usable, are usually **>restrictable when the subcombinations do not overlap in scope and are not obvious variants<.
> The examiner must show, by way of example, that one of the subcombinations has utility other than in the disclosed combination.
> Care must be taken to determine if the subcombinations are generically claimed.
> Where subcombinations as disclosed and claimed are both (a) species under a claimed genus and (b) related, then the question of restriction must be determined by both the practice applicable to election of species and the practice applicable to related inventions. If restriction is improper under either practice, it should not be required (MPEP § 806.04(b)).
> ** If applicant proves or provides an argument, supported by facts, that the other use, suggested by the examiner, cannot be accomplished or is not reasonable, the burden is on the examiner to document a viable alternative use or withdraw the requirement.

Further, note M.P.E.P. § 806.03 sets forth:

> Where the claims of an application define the same essential characteristics of a single disclosed embodiment of an invention, restriction therebetween should never be required. This is because the claims are but different definitions of the same disclosed subject matter, varying in breadth or scope of definition.

OPINION

Petitioner states that inventions of: Group I (claims 1-32 & 70-85), stated to be drawn to "fitting graphical objects in each frame of a document"; Group II (claims 33-60 & 86-102), stated to be drawn to "resizing or scaling objects relative to a frame"; and Group III (claims 61-69 & 103-110), stated to be drawn to "recognizing modified objects in a frame" are not disclosed as subcombinations usable together in a single combination, as stated by the Examiner. In addition, Petitioner argues that although the claims may certainly vary in scope from one another, they also clearly overlap in scope and that the "Examiner has clearly mischaracterized Applicant's claims as requiring separate subcombinations usable together in a single combination".

A review of the instant claims reveals at least some of the identified claims are in fact set forth in the instant application as *combination-type* claims, rather than *subcombination* claims, as identified by the Examiner. For example, note claims 1-69 for instance, all which recite "a method of fitting graphical objects within a plurality of graphical frames in a document ..." are generally representative of a *combination-type* claims. Further, a review of instant claims 70-110 drawn to a "computer-readable medium containing a program form performing a method of fitting graphical objects within a plurality of graphical frames in a document ..." contain many similar limitations and are of similar specificity as method claims 1-69, thus they clearly overlap in scope. Therefore, Groups I, II and III, as identified by the Examiner, clearly overlap in scope.

CONCLUSION

Therefore, for at least those reasons stated above and in accordance with M.P.E.P. §806.03 and §806.05(a) & (d), the restriction requirement of December 27, 2006 between Groups I - III (claims 1-110), for "subcombinations disclosed as usable together in a single combination" is deemed to be improper.

The petition is **GRANTED**. The restriction requirement mailed December 27, 2006 is hereby **WITHDRAWN** and a new office action on all of the pending claims will be forthcoming.

The application is being forwarded to the Examiner for appropriate action i.e. prosecution of all pending claims, ***consistent with this decision***.

Any inquiries related to this decision may be directed to the undersigned at (571) 272-3595.

Brian L. Johnson, Quality Assurance Specialist
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.
10/999,599	11/30/2004	Rick S. Seeler	6067-01600	3765

65132 7590 03/16/2009
M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

EXAMINER
NGUYEN, CHAU T

ART UNIT	PAPER NUMBER
2176	

MAIL DATE	DELIVERY MODE
03/16/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

M.H.K.K.G., P.C. / ADOBE SYSTEMS INCORPORATED
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

Applicant	: Rick S. Seeler	: DECISION ON REQUEST FOR
Patent Number	: 7676743	: RECALCULATION of PATENT
Issue Date	: 03/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,599	: OF WYETH
Filed	: 11/30/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: George Zindel Brown	: DECISION ON REQUEST FOR
Patent Number	: 7624788	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,604	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1147** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Kenneth J. Cool, P.C.
c/o Intellevate
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Qinghua Li	: DECISION ON REQUEST FOR
Patent Number	: 7596355	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,621	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **334** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OFFICE OF PETITIONS

WONG, CABELLO, LUTSCH, RUTHERFORD
& BRUCCULERI,L.L.P.
20333 SH 249
SUITE 600
HOUSTON, TX 77070

In re Application of
Michael G. Montie, et al.
Application No. 10/999,623
Filed: January 13, 2005
Attorney Docket No. 458-0002US

ON PETITION

This is a decision in response to the petition, filed April 12, 2007 to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed October 4, 2006. This decision precedes the mailing of a Notice of Abandonment. On April 12, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3643 for consideration of the amendment filed April 12, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APPLIED BIOSYSTEMS
500 OLD CONNECTICUT PATH
FRAMINGHAM, MA 01701

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AUG 0 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Pappin, Darryl J.C.	:	
Application No. 10/999,638	:	ON PETITION
Filed: November 24, 2004	:	
Attorney Docket No. BP0304US-1	:	

This is a decision on the petition filed May 16, 2005, requesting that the above-identified application be accorded a filing date of November 24, 2004, rather than the presently accorded date of November 26, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 24, 2004, pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. ET 925898204 US showing an illegible handwritten "date-in" as well as a "November 24, 2004" Bedford, MA Post Office receipt stamp. The same Express Mail receipt number appears on the original "Transmittal for Patent Application." The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated November 24, 2004, on the cover page for the application papers. Additionally, applicant has supplied a copy of the USPS Track & Confirm record showing that the package in question was accepted on November 24, 2004, at 3:01 p.m. in Bedford, MA.

In view of all the above evidence, it is concluded that the application was deposited as "Express Mail" with the USPS on November 24, 2004.

The petition is **GRANTED**.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of November 24, 2004, along with a corrected filing receipt.** Thereafter, the matter will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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JUL 27 2007

OFFICE OF PETITIONS

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

In re Application of	:	
Venkat Konda	:	
Application No. 10/999,649	:	ON PETITION
Filed: November 27, 2004	:	
Attorney Docket No. V-0012 US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 23, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed November 16, 2005, 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 February 17, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2612 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
10/999,649	11/27/2004	Venkat Konda	V-0012 US

CONFIRMATION NO. 5316

OC000000025041775

COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
FIVE PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306-2155

Date Mailed: 07/26/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/23/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

OIPE JC48
MAR 17 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE		
	Application Number	10/999,650
	Filing Date	November 30, 2004
	First Named Inventor	Brenda LANINI
	Group Art Unit	1638
	Examiner Name	Keith Robinson
	Attorney Docket Number	1305-030
Title of the Invention: **Multibranching Watermelon Plant and Method of Producing**		

CERTIFICATE OF EXPRESS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail (post office to addressee) in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 16th day of March 2005. The number of the Express Mail mailing label is EV195486203US.

Kenyon L. Schuett
Reg. No. 44,324

Petition for Correction of Inventorship

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to the provisions of 37 C.F.R. §1.48(a), Applicant hereby petitions to correct inventorship of the subject application. Specifically, Applicant requests the Commissioner to add Theodore H. SUPERAK and Bill COPES as co-inventors with the already named inventor of record, Brenda LANINI.

In support of this request and in accordance with the requirements of 37 C.F.R. §1.48(a), Applicants concurrently submit the following:

03/18/2005 HALI11 00000023 10999650
01 FC:1464 130.00 OP

1) Declaration and Power of Attorney document in compliance with 37 C.F.R. §1.63 signed by all of the inventors;
2) A statement under 37 C.F.R. §1.48(a), signed by each inventor to be added;
3) A statement from the Applicant stating that the omission of Theodore H. SUPERAK and Bill COPES and the incorrect identification of the Applicant as the sole inventor occurred without any deceptive intention on the part of the Applicant;
4) A Consent of Assignee to Correct Inventorship, signed by an official of Harris Moran Seed Company, the assignee of the entire interest of Applicant and the correct inventors, Theodore H. SUPERAK and Bill COPES;
5) A Statement under 37 C.F.R. §3.73(b) by assignee Harris Moran Seed Company; and
6) A check for the requisite fee.

If any additional payment is required, or any discrepancies in fees are noted, please charge or credit the cost thereof to Deposit Account No. 50-2368.

RESPECTFULLY SUBMITTED,					
NAME AND REG. NUMBER	Kenyon L. Schuett, Reg. No. 44,324				
SIGNATURE	Kenyon L. Schuett		DATE	March 16, 2005	
Address	Jondle & Associates P.C. Suite 200, 9085 East Mineral Circle				
City	Centennial	*State*	CO	*Zip Code*	80112
Country	U.S.A.	*Telephone*	303-799-6444	*Fax*	303-799-6898

DAVID H. KRUSE, PH.D.
PRIMARY EXAMINER

Approved
David H Kruse

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

FEB 15 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Brenda Lanini	:
Serial No.: 10/999,650	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1305-030	

This is in response to the petition under 37 CFR § 1.59(b), filed December 14, 2006 to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on October 12, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

OCT 17 2007

In re Application of	:
Lanini et al.	:
Serial No.: 10/999,650	: PETITION DECISION
Filed: November 30, 2004	:
Attorney Docket No.: 1305-030	:

This is in response to the petition under 37 CFR § 1.59(b), filed September 26, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on October 12, 2006, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Christian Lutz	: DECISION ON REQUEST FOR
Patent Number	: 7648508	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,665	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1384** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

MAILED

SEP 28 2009

OFFICE OF PETITIONS

In re Application of Smaldone et al. :
Application No. 10/999,679 :
Filing Date: November 30, 2004 :
Attorney Docket No. STONYB-09294 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed May 11, 2009, seeking to correct a priority claim. The petition will also be treated as a petition under 37 CFR 1.78(a)(6).[1]

The petition under 37 CFR 1.181 is **dismissed**.

The petition under 37 CFR 1.78(a)(6) is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(6)."

Facts

Application No. 10/430,765 was filed May 6, 2003. The application claimed priority to five provisional applications including Application No. 60/378,475 filed May 7, 2009.

The instant application was filed November 30, 2004. The transmittal letter stated the specification should be amended by adding priority claims to Application No. 10/430,765 and to five prior provisional applications. As a result of an inadvertent error, petitioner listed the application number for Application No. 60/378,475 as 60/378,485.

A Notice of Allowance was mailed in the instant case on February 10, 2009.

The instant petition, a petition fee of $400, and the issue fee were submitted on Monday, May 11, 2009.

[1] Senior Petitions Attorney called Attorney John Roberts on September 23, 2009, and asked if the attorney wished for the petition to also be treated as a petition under 37 CFR 1.78(a)(6). In a return phone call on September 24, 2009, Attorney Roberts indicated he wished for the petition to also be treated as a petition under 37 CFR 1.78(a)(6).

The petition is titled "Petition to Correct Under § 1.181" and requests the Office replace the phrase "60/378,485 filed on 05/07/02" with the phrase "60/378,475 filed on 05/07/2002." The Office notes the filing date for Application No. 60/378,485 is May 6, 2009.

The petition is not accompanied by a separate amendment to the specification or a supplemental application data sheet correcting the priority claim.

The Petition Under 37 CFR 1.181

A petition under 37 CFR 1.181 is inappropriate because 37 CFR 1.181 does not provide for the correction of priority claims due to inadvertent errors by applicants. Therefore, a petition under 37 CFR 1.81 is dismissed.

The Petition Under 37 CFR 1.78(a)(6)

The instant application was filed after November 29, 2000. The request to correct a benefit claim is being made on a date after the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior application. Therefore, a petition under 37 CFR 1.78(a)(6) is necessary.

In this case, petitioner seeks to correct a typographical error. Specifically, petitioner seeks to claim priority based on Application No. 60/378,475 filed May 7, 2009, instead of Application No. 60/378,485 filed May 6, 2009. Even though petitioner seeks to correct a typographical error, a petition under 37 CFR 1.78(a)(6) is necessary. The Office's website includes information related to the American Inventor's Protection Act of 1999 including questions and answers addressing several matters. The website includes the following language:

> CX9. Applicant [timely] filed an application with a claim for the benefit of an earlier copending nonprovisional application, Application No. 05/123,455 ... but referenced an incorrect application number (should have been 06/123,456). If applicant wants to correct the application number after the four month period would a petition under 37 CFR 1.78(a)(3) and the surcharge set forth in 37 CFR 1.17(t) be required? (added 4Feb2005)
>
> Yes, a petition and the surcharge would be required to correctly identify the prior application number because a benefit claim pursuant to 37 CFR 1.78(a)(2) requires identification of the application number and the Office enters the prior application's application number to schedule the application for publication.

A petition under 37 CFR 1.78(a)(6) must include:

(1) The surcharge set forth in 37 CFR 1.17(t) (currently $1,410),
(2) A statement that the entire delay between the date the claim was due under paragraph 37 CFR 1.78(a)(5)(ii) and the date the claim is filed is unintentional, and
(3) The reference required by 35 U.S.C. 119(e) and 37 CFR 1.78(a)(5) unless previously submitted.

As to item (1), the $1,410 surcharge has been paid as follows:

(A) The fee of $400 filed with the petition has been applied towards the required surcharge, and

(B) $1,010 has been charged to petitioner's deposit account.

As to item (2), the petition does not include a statement that the entire delay between the date the claim was due under paragraph 37 CFR 1.78(a)(5)(ii) and the date the claim is filed is unintentional. Any request for reconsideration should state, "The entire delay between the date the claim was due under paragraph 37 CFR 1.78(a)(5)(ii) and the date the claim is being filed is unintentional."

As to item (3), the amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Even if a separate amendment had been filed, the amendment would have only been acceptable if the amendment had actually amended the first sentence(s) of the specification. The Office notes the first sentence of the specification does not currently include any priority claims.

Petitioner may wish to note the following language in MPEP 201.11(III)(D):

> The reference required by 37 CFR 1.78(a)(2) or (a)(5) must be included in an ADS or the specification must contain or be amended to contain such reference in the first sentence(s) following the title. If an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter) within the time period set forth in 37 CFR 1.78(a), the Office will not require a petition under 37 CFR 1.78(a) and the surcharge under 37 CFR 1.17(t) to correct the claim if the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt.... Even if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence(s) of the specification and all other requirements are met.

Any request for reconsideration should include a proper amendment adding the priority claims to first sentence(s) of the specification or a supplemental application data sheet that includes the correct priority claims.[2] Once an amendment or supplemental application data sheet (ADS) is

[2] An application data sheet after an application is filed is referred to as a "supplemental" application data sheet even if another application data sheet has not been previously filed.

filed with a request for reconsideration, the examiner will determine whether or not the amendment or ADS complies with 37 CFR 1.312.[3] 37 CFR 1.312 states,

> No amendment may be made as a matter of right in an application after the mailing of the notice of allowance. Any amendment filed pursuant to this section must be filed before or with the payment of the issue fee, and may be entered on the recommendation of the primary examiner, approved by the Director, without withdrawing the application from issue.

If the examiner determines the amendment or ADS does not comply with 37 CFR 1.312, petitioner will either need to file a request for reconsideration including arguments establishing the requirements of 37 CFR 1.312 have been met or file a petition to withdraw from issue and a Request for Continued Examination.

Unless filed by EFS web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[3] MPEP 714.06 states the term "amendment" "broadly encompasses any change in the file record of the application." The Office considers changes to priority claims made in a supplemental application data sheet to fit within the broad definition of amendment. Therefore, any ADS filed after the mailing of a notice of allowance must satisfy 37 CFR 1.312.

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

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JAN 13 2010

OFFICE OF PETITIONS

In re Application of Smaldone et al.	:	
Application No. 10/999,679	:	
Filing Date: November 30, 2004	:	Decision on Petition
Patent No. 7,607,436	:	
Issue Date: October 27, 2009	:	
Attorney Docket No. STONYB-09294	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6) filed November 18, 2009.

The petition under 37 CFR 1.78(a)(6) is **dismissed**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(6)."

If the application had not yet issued as a patent, the instant petition would be grantable. However, the Office issued the instant application as a patent on October 27, 2009.

As a result of the issuance of the patent, the instant petition cannot be granted absent the submission of a request for a certificate of correction.

A request for reconsideration, request for certificate of correction, and the $100 fee for the request for certificate of correction should be submitted.

Unless filed by EFS web, further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
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P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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MEDLEN & CARROLL, LLP
101 HOWARD STREET
SUITE 350
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Gerald C. Smaldone	: DECISION ON REQUEST FOR
Patent Number	: 7607436	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,679	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **641** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FRISHAUF, HOLTZ, GOODMAN & CHICK, PC
220 Fifth Avenue
16TH Floor
NEW YORK, NY 10001-7708

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OFFICE OF PETITIONS

In re Application of	:	
Masanobu Shimizu	:	
Application No.: 10/999,709	:	ON PETITION
Filed: November 30, 2004	:	
Attorney Docket No.: 04845/LH	:	

This is a decision on the petition, filed September 15, 2009, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 19, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2853 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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KNOXVILLE, TN 37950-1295

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OFFICE OF PETITIONS

DECISON ON PETITION

In re Application of
MOSER, Rocky
Application No. 10/999,718
Filed: November 30, 2004
Attorney Docket No. **30387.00**

This is a decision in response to the petition, filed August 23, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **DISMISSED.**

The application became abandoned for a failure to timely pay the issue and publication fees on or before November 24, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed August 24, 2006. Accordingly, the date of abandonment of this application is November 27, 2006 (November 25, 2006 was a Saturday).

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

Petitioner has supplied the reply in the form of payment of the issue/publication fees and the petition fee of $1,500; however, the petition lacks an adequate statement of unintentional delay.

In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Therefore, petitioner must provide a statement from the owner of the invention at the time of abandonment explaining why action was not timely taken to prevent the application from becoming abandoned.

Petitioner is advised to send a letter (accompanied by a copy of this decision) to UNITED CUTLERY CORPORATION. at 1425 United Boulevard, Sevierville, TN 37876, by certified or registered mail (return receipt requested) indicating that the U.S. Patent and Trademark Office (USPTO) is requesting assistance in ascertaining the cause of abandonment of the above-identified application, and that the USPTO is requesting that UNITED CUTLERY CORPORATION provide within a

[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.

specified period (*e.g.*, one month) a statement setting forth why appropriate action was not timely taken to prevent the application from becoming abandoned. Petitioner is advised that, in the event that UNITED CUTLERY CORPORATION does not provide such a statement, petitioner should submit a copy of such letter and a copy of the return receipt.

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)" as well as the omitted item(s) noted above. This is **not** a final agency action within the meaning of 5 U.S.C. ' 704.

Further correspondence with respect to this matter should be addressed as follows:

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Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.

Brian W. Brown
Petitions Examiner
Office of Petitions

CC: **RODNEY HUNTER**
BUD K WORLD WIDE, INC.
475 US HIGHWAY 319 S
MOULTRIE, GA 31768-0508

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JAN 3 1 2005

In re Application of	:	
LINDSEY et al.	:	
Serial Number: 10/999,721	:	PETITION UNDER
Filed: November 30, 2004	:	M.P.E.P.708.02 IV
For: INDUSTRIAL NUTCRACKER	:	

This is in response to the petition filed December 27, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102(c) (**no fee required**).

The request for Special Status considered under Section 708.02 IV has been granted because the criteria under 37 CFR 1.102(c) have been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Michael K. Lindsey
Gavrilovich, Dodd & Lindsey, LLP
330 E. Main St., Suite 205
Barrington, IL 60010

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KRIEG DEVAULT LLP
ONE INDIANA SQUARE, SUITE 2800
INDIANAPOLIS, IN 46204-2709

8/1/08

In re Application of:
Kevin Foley et al.
Serial No.: 10/999,727
Filed: Nov. 30, 2004
Docket: MSDI-360/PC304.08
Title: EXPANDABLE INTERVERTEBRAL SPACERS

DECISION ON PETITION

This is a decision on the petition filed on May 12, 2008 to withdraw the finality of the Office action of May 1, 2008. The petition is being considered pursuant to 37 CFR § 1.181 and no fee is required for the petition.

The petition is **DISMISSED**.

A review of the relevant portion of the record shows amended claims 1, 9, 10, 16, 24, 29, and 32 were submitted on May 18, 2007. A final rejection was issued on Aug. 23, 2007. A RCE with an amendment to claims 1, 2, 8, 9, 10, 13, 15, 16, 18, 19, 20, 24, 25, 29, and 32 was filed on Nov. 5, 2007. A notice to the applicant regarding a non-compliant or non-responsive amendment was issued on Jan. 24, 2008. On Jan. 29, 2008, the amended claims were again submitted. On May 1, 2008, the examiner issued a final rejection. In the final rejection, Claims 1, 3, 5-9, 12, 14-18, 20-23, 25-28, 30, and 31 were rejected under 35 USC 102(e) as being anticipated by Perren et al. (US Patent No. 6,019,793). Claims 2, 10, 11, and 19 were rejected under 35 USC 103(a) as being unpatentable over Perren et al. (US Patent No. 6,019,793) in view of Hochshuler et al. (US Patent No. 6,045,579). Claim 4 was rejected under 35 USC 103(a) as being unpatentable over Perren et al. (US Patent No. 6,019,793) in view of Brett (US Pat. No. 6,126,689). Claims 24, 29 and 32 were rejected under 35 USC 103(a) as being unpatentable over Perren et al. (US Patent No. 6,019,793) in view of Li et al. (US Pat. No. 6,039,761).

Analysis of Application Record

In the petition of May 12, 2008, on page 3, petitioner states "the amended versions of claims...recited newly added claim language and in some instances newly added elements and features." It is undisputed that the amendments submitted Jan. 29, 2008 add new claim language, elements and features. However, the petitioner opines that these additions are not drawn to the same invention that is claimed in the May 18, 2007 claims.

The relevant provision is MPEP 706.07(b) [1], which states that a final rejection may be made upon claims that were previously rejected where the finally rejected claims are drawn to the same invention as previously claimed.

The Jan. 29, 2008 amendments are drawn to the same invention that is claimed in May 18, 2007. The additional language, elements and features only narrow the claim limitations present in the May 18, 2007 claims. The added language, elements and features add further limitations to the claimed invention, but the invention itself is the same in both the May 18, 2007 and the Jan. 29, 2008 amendments. As discussed further below, the Jan. 29, 2008 amendments do not substantively change the core invention claimed. Therefore, both the May 18, 2007 and the Jan. 29, 2008 amendments are drawn to the same invention.

Claim 1 of the Jan. 29, 2008 amendments is drawn to the same invention as Claim 1 of May 18, 2007. In particular, Jan. 29, 2008 Claim 1 claims two ends, each pivotally connected, to allow the ends to pivot. May 18, 2007 Claim 1 claims two hinged connections. The hinges and pivots are substantially the same, and both versions of Claim 1 have essentially the same result of allowing the ends to pivot.

Since Claim 1 of Jan. 29, 2008 is drawn to the same invention as Claim 1 of May 18, 2007, dependent Claim 2 is drawn to the same invention in both versions as well. The amendments in Jan. 29, 2008 do not claim a different invention. They only make Jan. 29, 2008 Claim 2 consistent with the amendments to Jan. 29, 2008 Claim 1. Claim 2 is drawn to the same invention in both the May 18, 2007 and the Jan. 29, 2008 amendments.

Claims 8, 15, 18, 20, and 25 of Jan. 29, 2008 are drawn to the same invention as Claims 8, 15, 18, 20, and 25 of May 18, 2007 amendments. While Jan. 29, 2008 adds the further limitation of longitudinal edges, the claims of both May 18, 2007 and Jan. 29, 2008 claim upper and lower vertebral engaging surfaces in the respective claims. Thus, the same invention is claimed in both versions.

Claims 9, 16, and 19 are drawn to the same invention in both the May 18, 2007 and Jan. 29, 2008 amendments. The Jan. 29, 2008 amendments add pivot connections and remove hinged connections. Since hinges and pivots are substantially the same and no other changes are made, the May 18, 2007 and Jan. 29, 2008 versions of Claims 9, 16, and 19 are drawn to the same invention.

Claims 10, 24, 29, and 32 in Jan. 29, 2008 add language to make the claims more clear, but the claimed invention is the same. In the Jan. 29, 2008 amendments, the claims clarify which limitations are first, second, third, and/or fourth, but the limitations themselves are the same as

[1] Section 706.07(b) of the MPEP states: The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application. (emphasis added).

the limitations in the May 18, 2007 amendments; only the clarifications are new, but the claimed invention is the same. The nature of couplings in Jan. 29, 2008 is amended to be "pivotally and moveably coupled", whereas May 18, 2007 stated only "pivotally coupled". However, this addition does not change the claimed invention. Further, an invention that is pivotally coupled would necessarily be moveably coupled as well, because pivoting is a form of moving. This amendment does not change the claimed invention.

Claim 13 in the Jan. 29, 2008 amendment adds the further limitation that the rigid sidewalls are "non-deformable". This added limitation is drawn to the sidewalls claimed in May 18, 2007; thus, Jan. 29, 2008 Claim 13 is drawn to the same invention as May 18, 2007 Claim 13.

Conclusion

Based on the analysis of the record, when the examiner issued the final rejection on May 1, 2008, the conditions set forth in MPEP 706.07(b) were met. In particular, the amended claims in the amendment on Jan. 29, 2008, in fact, are directed to the same invention as the claims in the earlier amendment filed on May 18, 2007 as indicated by the scope of the claims and the content of the rejections. The claims in the amendment of May 18, 2007 would have been properly rejected on the same grounds and art of record in the next office action if they had been filed earlier. Therefore, under MPEP 706.07(b), the final rejection of May 1, 2008 is deemed proper.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3774 pending the filing of a proper reply to the final rejection. See relevant provisions of 37 CFR 41.31, 1.113, 1.114, and 1.116. Petitioner is reminded that the period for filing such reply remains set forth in the final rejection notwithstanding the filing of the instant petition. Petitioner may file a request for reconsideration of this decision, without fee. However, such request must be filed within two months of the date of this decision. See 37 CFR 1.181(f). Should petitioner have any further questions, he is invited to contact Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is dismissed.

Frederick R. Schmidt, Director
Technology Center 3700

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Howard M. Ellis
Simpson & Simpson, PLLC
5555 Main Street
Williamsville NY 14221

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OFFICE OF PETITIONS

In re Application of	:
Finnerty and Coimbra	: DECISION ACCORDING STATUS
Application No. 10/999,735	: UNDER 37 CFR 1.47(a)
Filed: November 30, 2004	:
Attorney Docket No. NADP.102US	:

This is in response to the petition under 37 CFR 1.47(a), filed April 29, 2005.

The petition under 37 CFR 1.47(a) is granted.

The Affidavit of patent attorney Howard W. Ellis established that David Coimbra, the non-signing inventor cannot be located to join in the application.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 1745 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Thomas Zurek	: DECISION ON REQUEST FOR
Patent Number	: 7610272	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,744	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FLIESLER MEYER LLP
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14TH FLOOR
SAN FRANCISCO, CA 94108

Mail Date: 04/20/2010

Applicant	: Fabio Riccardi	: DECISION ON REQUEST FOR
Patent Number	: 7571160	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

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JUN 12 2006

OFFICE OF PETITIONS

In re Application of	:	
Hamada, et al.	:	
Application No. 10/999,747	:	ON PETITION
Filed: 30 November, 2004	:	
Attorney Docket No. FUJO 21.558	:	

This is a decision on a petition filed on 23 September, 2005, under 37 C.F.R. §1.137(b).

For the reasons set forth below, the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record indicates:

- Petitioner failed to reply timely to the Notice of Allowance/Allowability and Fees Due mailed on 17 June, 2005, with reply due under a non-extendable deadline on or before Monday, 19 September, 2005;
- the application went abandoned by operation of law after midnight 17 September, 2005;
- it does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed;
- Petitioner filed the instant petition on 23 September, 2005, with fee, reply in the form of a request for continued examination (REC) and fee and submission (IDS) under 37 C.F.R. §1.114, and made the statement of unintentional delay–thus, Petitioner appears to have satisfied the regulatory requirements under 37 C.F.R. §1.137(b);

- however, before the Office addressed the instant petition, the Examiner mailed a non-final Office action on 15 November, 2005;

- as a matter of record: on 15 March, 2006, Petitioner filed a reply in the form of an amendment request and fee for extension of time.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[1]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[2]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4] And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and

---

[1] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[2] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

[3] See: *Changes to Patent Practice and Procedure; Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997).

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

It appears that Petitioner has satisfied the requirements of the regulation.

CONCLUSION

Because Petitioner appears to have satisfied the regulatory requirements, regulation, the petition under 37 C.F.R. §1.137(b) is **granted**.

The application is released to the Examiner in Technology Center 2800 for further processing in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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TEAK NETWORKS, INC.
6278 GRAND OAK WAY
SAN JOSE CA 95135

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of
Venkat Konda
Application No. 10/999,757
Filed: November 27, 2004
Attorney Docket No. V-0011 US

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed March 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, June 29, 2005, 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 September 30, 2005. A Notice of Abandonment was mailed on July 7, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of an "Amendment/Response to Office Action," (2) the petition fee of $750, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of June 29, 2005 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The power of attorney submitted with the petition is unacceptable since it fails to satisfy the requirements of 37 CFR 3.73(b). In this regard, the statement under 37 CFR 3.73(b) fails to provide the chain of title from the inventor to the current assignee. *Note* USPTO Form No. PTO/SB/96, which provides in Part B a space for setting forth the chain of title from the inventor to the current assignee. A courtesy copy of this decision is being mailed to petitioner herein. However, until an appropriate power of attorney is received, all correspondence regarding this application will continue to be mailed to the above address of record.

This application is being referred to Technology Center AU 2612 for appropriate action in the normal course of business on the reply received March 23, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Cooley Goodward Kronish LLP
ATTN: Patent Group
Five Palo Alto Square
3000 El Camino Real
Palo Alto, CA 94306-2155

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MOORE & VAN ALLEN PLLC
P.O. BOX 13706
Research Triangle Park, NC 27709

Mail Date: 04/21/2010

Applicant	: Kenneth D. James	: DECISION ON REQUEST FOR
Patent Number	: 7648962	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,761	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DORSEY & WHITNEY
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SEATTLE WA 98101

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OFFICE OF PETITIONS

In re Application of	:	
Chris G. Martin	:	
Application No. 10/999,770	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 501099.12(30086/US/4)	:	

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 10, 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 2818 will consider the request for continued examination under 37 CFR 1.114.

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **September 28,2007**

TO SPE OF : ART UNIT **2818**

SUBJECT : Request for Certificate of Correction for Appl. No.: **10/999,770** Patent No.: **7187601 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

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: _____

Steven Sale
SPE

2818
Art Unit

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DORSEY & WHITNEY
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OFFICE OF PETITIONS

In re Application of	:	
Chris G. Martin	:	
Application No. 10/999,771	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. 501099.11(30086/US/3)	:	

This is a decision on the petition, filed February 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 9, 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 2818 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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KELLEY DRYE & WARRANT LLP
400 Atlantic Street
Stamford, CT 06901

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AUG 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeffrey N. Marcus	:	
Application No. 10/999,773	:	DECISION ON PETITION
Filed: November 30, 2004	:	TO WITHDRAW
Attorney Docket No. NU-103.1 (US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 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 Marvin R. Wachs 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: **Jeffrey N. Marcus**
15 Champa Street
Newton, MA 02464

cc: **Wolf Greenfield & Sacks, P.C.**
600 Atlantic Avenue
Boston, MA 02210-2206

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,773	11/30/2004	Jeffrey N. Marcus	NU-103.1 (US)

CONFIRMATION NO. 4271

KELLEY DRYE & WARREN LLP
400 Atlantic Street
Stamford, CT 06901

POWER OF ATTORNEY NOTICE

OC000000037275372

Date Mailed: 08/07/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/16/2009.

- 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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MEDLEN & CARROLL, LLP
Suite 1700
380 Lexington Avenue
New York, NY 10168

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JUN 1 0 2005

OFFICE OF PETITIONS

In re Application of :
Smaldone et al. :
Application No. 10/999,788 :
Filed: November 30, 2004 : ON PETITION
Attorney Docket Number: :
STONYB-09295 :

This is in response to the Petition to Accept Application Under [37] CFR § 1.53(b), requesting the application be accorded a filing date of November 30, 2004, including drawing Figure 17 described in the specification.

The application was filed on November 30, 2004. However, on February 23, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application ("Notice"), noting, *inter alia*, that drawing Figure 17, described in the specification, appeared to have been omitted from the application.

In response, Petitioner files the instant petition wherein Petitioner avers that drawing Figure 17 was among 21 sheets of drawings originally filed with the application on November 30, 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*, 21 sheets of drawings on November 30, 2004.

A review of the application papers filed on November 30, 2004, reveal that the Office received 21 sheets of drawings with the application filed on November 30, 2004, including drawing Figures 17A, 17B and 17C; however, no drawing Figure 17 was located among the application papers filed on November 30, 2004.

Applicant has not provided any evidence that would demonstrate that a drawing Figure 17 was filed with this Office on November 30, 2004. If drawing Figure 17 was not present on the November 30, 2004 filing date, it cannot be considered a part of the original disclosure of the application. Petitioner has failed

30, 2004 filing date, it cannot be considered a part of the original disclosure of the application. Petitioner has failed to satisfactorily demonstrate that drawing Figure 17 was present in the Office on November 30, 2004. Therefore, the application cannot be accorded the November 30, 2004 filing date with drawing Figure 17 as a part of the original disclosure.

The petition is **DISMISSED**.

The petition fee will not be refunded because the petition was not necessitated by an error on the part of this Office.

The application is an Image File Wrapper ("IFW"), and as such, no forwarding of the file is necessary.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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Suite 1700
380 Lexington Avenue
New York, NY 10168

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OFFICE OF PETITIONS

In re Application of
Smaldone et al.
Application No. 10/999,788
Filed 11/30/2004
Title of Invention:
METHODS, DEVICES AND
FORMULATIONS FOR TARGETED
ENDOBRONCHIAL THERAPY

ON PETITION

This is a decision on the Petition to Accept Application Under [37] C.F.R. § 1.53(b), filed November 6, 2006. Petitioner is requesting a filing date of November 30, 2004.

Background

The application was filed on November 30, 2004. On February 23, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application-Filing (hereinafter "Notice") stating, *inter alia*, that the application had been accorded a filing date; however, Figure 17 described in the specification appeared to have been omitted from the application.

Applicant files the instant petition and has now determined that the reference in the specification to Figure 17 is a reference to Figures 17A, 17B, and 17C collectively. Applicant has filed an amendment canceling the reference to Figure 17, and requests the granting of the filing date of November 30, 2004.

Analysis

Initially it is noted that the application has been accorded a filing date of November 30, 2006. Regarding the Amendment, the MPEP states:

> Applicant may accept the application as deposited in the USPTO by either: (1) not filing a petition under 37 CFR 1.53(e) or 37 CFR 1.182 (and the required petition fee) as discussed above within 2 months of the date of the "Notice of Omitted Item(s)". The failure to file a petition under 37 CFR 1.53(e) or 37 CFR 1.182 will be treated as constructive acceptance by the applicant of the application as deposited in the USPTO. The application will maintain the 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. Amendment of the specification is required in a nonprovisional application to renumber the pages consecutively and cancel any incomplete sentences caused by the absence of the omitted page(s). Such amendment should be by way of preliminary amendment submitted prior to the first Office action to avoid delays in the prosecution of the application.

MPEP 601.01(d).

This section informs Applicant that the failure to file a petition will result in the application being accorded the filing date that the original papers were filed – in this instance, November 30, 2004, the date that Applicant is requesting in his petition. The section also informs Applicant to file a preliminary amendment to the specification correcting the incorrect reference. Here, Applicant has responded to the Notice and filed an amendment canceling the reference to Figure 17.

Applicant is advised that no petition is necessary. The issue of entry of the amendment and/or new matter is appropriately addressed by the Examiner.

The application is being referred to Technology Center Art Unit 3771 for consideration by the Examiner of the amendment filed with the petition on November 6, 2006.

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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OFFICE OF PETITIONS

In re Application of
Dave E. Sorens et al.
Application No. 10/999,805
Filed: November 30, 2004
Attorney Docket No. SSK-45 (19087)

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This decision is in response to the petition filed November 3, 2005, under 37 CFR 1.47(a), in response to the Notice to File Missing Parts "Notice" mailed April 1, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on July 13, 2005 but without a signed declaration. Accordingly, on April 1, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, the present petition, was filed with an oath or declaration executed by all joint inventors except joint inventor William E. Conley. Petitioners seek status under 37 CFR 1.47(a) based on the fact that the declaration and assignment was sent to Mr. Conley at his last known address and, that in spite of their efforts to have him sign the oath or declaration, Mr. Conly has not returned an executed oath or declaration. Petitioners claim therefore that by his actions, Mr. Conley is refusing to cooperate with the filing of the instant application.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that a copy of the application (specification, including claims, drawings, if any, and the declaration) was sent to the non-signing inventor. The petition indicates that the declaration and assignment documents were sent to Mr. Conley but does not indicate that the complete application was ever sent to him. Thus, there is no evidence to show that the non-signing inventor had the benefit of reviewing the application.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first hand knowledge of the details.

Likewise, before a *bona fide* refusal can be shown, the non-signing inventor must have been given an opportunity to review the application. Therefore, petitioners must show proof that the non-signing inventor refuses to sign the declaration after being sent or given a copy of the application papers. If there is a written refusal, petitioners should submit a copy of that refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Office of Petitions

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Dave E. Sorens et al.
Application No. 10/999,805
Filed: November 30, 2004
Attorney Docket No. SSK-45 (19087)

: 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 November 3, 2005 and was dismissed in a decision mailed November 15, 2005.

Papers filed on January 17, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed November 15, 2005, included a declaration signed by the previously non-signing inventor, William E. Conley , in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed January 17, 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 1771 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 04/21/2010

Applicant	: Grayson Morris	: DECISION ON REQUEST FOR
Patent Number	: 7588642	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **952** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HUSCH BLACKWELL SANDERS, LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Dave Donaldson, et al.	:	
Application No. 10/999,836	:	DECISION ON PETITION
Filed: November 30, 2004	:	TO WITHDRAW
Attorney Docket No. 77580-001	:	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 December 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.

The request was signed by Robert C. Haldiman on behalf of all attorneys of record who are associated with customer No. 29493. All attorneys/agents associated with the Customer Number 29493 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 application became abandoned for failure to timely reply to the outstanding Office action mailed July 2, 2008.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: DAVE DONALDISON
C/O COOT2, INC
17383 E. IL HWY. 116
FAIRVIEW, IL 61432

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/999,836	11/30/2004	Dave Donaldson	77580-001

CONFIRMATION NO. 4403

POWER OF ATTORNEY NOTICE

29493
HUSCH BLACKWELL SANDERS LLP
190 CARONDELET PLAZA
SUITE 600
ST. LOUIS, MO 63105-3441

OC000000034541069

Date Mailed: 02/12/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/29/2008.

- 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.

/amwise/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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JJGJR.: 07-05

QUALCOMM INCORPORATED
PATENTS DEPARTMENT
5775 MOREHOUSE DRIVE
SAN DIEGO CA 92121-1714

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JUL 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Nasielski, et al.	:	
Application No. 10/999,839	:	DECISION ON PETITION
Filed: 29 November, 2004	:	
Attorney Docket No. 040097U2	:	

This is a decision on the petition under 37 C.F.R. §1.53, filed on 27 April, 2005, requesting that the above-identified application be accorded a filing date of 29 November, 2004.

The petition is **GRANTED**.

BACKGROUND

The application was deposited on 29 November, 2004.

On 23 February, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (the Notice) stating, *inter alia*, that no filing date had been assigned because the application was deposited without drawings,[1] and requiring drawings be filed if necessary.

The Notice informed Petitioner that the alternatives available were to: (a) petition contending that the application was deposited with drawings; (b) petition contending that the application did not require drawing for the understanding of the subject matter sought to be patented; or (c) submit the missing drawings and accept the date of that submission as the filing date of the application.

In response, Petitioner filed the instant papers on 27 April, 2005 (over a Monday, 25 April, 2005, certificate of mailing), and included therein a copy of a date-stamped ("112904") receipt card

[1] The provisions of 35 U.S.C. §113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented."

(see: MPEP §503)[2] submitted with the original application and with drawing sheets numbered consecutively "1/9" through "9/9" containing Figs. 1 - 5B.

ANALYSIS

A review of the file reveals that the application was deposited on 29 November, 2004, and that the date-stamped ("112904") receipt card states in pertinent part:

* * *

> Utility Application Transmittal (in duplicate); Specification (50) pages)[3]; Drawings (9 sheets); Informatin (sic) Disclosure Statement (2 pages); PTO 1449 form (1 page); Return Postcard

* * *

---

[2] The commentary at MPEP §503 provides in pertinent part:

* * *

RETURN POSTCARD

If a receipt for any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. To ensure the receipt of return receipt postcards, users must either: (A) purchase already stamped postcards from the United States Postal Service (USPS) or affix postage stamps to their postcards; or (B) if a postage meter is used, ensure that the meter postmark does not show the date. Any return receipt postcard containing a dated meter postmark may not be delivered by the USPS to the address provided on the postcard.< The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which >a< receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO.

[3] The typrwritten number "49" is marked out and the handwritten number "50" is written in.

Because Petitioner's receipt card adequately itemized the contents of the application on the receipt card, it is concluded that the application, including nine (9) sheets of drawings were deposited with the Office on 29 November, 2004, and the drawings subsequently were misplaced in the Office.

Accordingly, the application, as filed, is entitled to a filing date.

The "Notice of Incomplete Nonprovisional Application" mailed on 23 February, 2005, was sent in error and is hereby **vacated** to the extent that it stated that the application was incomplete.

The petition is **granted** and the petition fee waived (the petition fee will be credited to Deposit Account 17-0026).

This application is released to OIPE for further processing with a filing date of 29 November, 2004, for the entire application and in particular for the 9 sheets of formal drawings, Figs. 1 - 5B as described in the specification, using:

- **the 50 pages of specification (description, claims and abstract) deposited on 29 November, 2004; and**
- **the 9 sheets of formal drawings (Figs. 1 - 5B) deposited on 27 April, 2005; and**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 29 November, 2004, and reflecting therein that 50 pages of specification (description, claims and abstract) and 9 sheets of formal drawings were present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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COHEN, PONTANI, LIEBERMAN & PAVANE
551 Fifth Avenue, Suite 1210
New York, NY 10176

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of
Stefan GROETSCH, et *al.*
Application No. 10/999,854
Filed: November 29, 2004
Attorney Docket No. **5367-143**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 23, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 20, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2826 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.*

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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Namit Jain	: DECISION ON REQUEST FOR
Patent Number	: 7627547	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,864	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/29/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **422** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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General Electric Company
GE Global Patent Operation
2 Corporate Drive, Suite 648
Shelton, CT 06484

Mail Date: 04/29/2010

Applicant	: Sylvain Bernard	: DECISION ON REQUEST FOR
Patent Number	: 7630534	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 10/999,874	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1377** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

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APR 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Charles F. Fisler	:	
Application No. 10/999,876	:	DECISION ON PETITION
Filed: 11/30/2004	:	
Atty Docket No. SYS-P-1370	:	
(8364-92339) H	:	

This is a decision on the petition filed on 12 February, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 14 September, 2006, for failure to timely submit a reply to the non-final Office action mailed on 13 June, 2006, which set a three (3) month shortened

---

[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)).

statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 29 January, 2007.

Petitioners have filed an amendment in response to the non-final Office action.

The address in the petition is different than the correspondence address. 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.

It is noted that petitioners have submitted a three (e) month extension of time with the present petition. In this regard, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] As the extension of time filed on 12 February, 2007, was filed after the maximum extendable period for reply to the Office action mailed on 13 June, 2006, the fee is unnecessary. As such, the $1,020.00 paid on 12 February, 2007, will be credited to counsel's deposit account.

This application is being referred to Technology Center Art Unit 2612 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

cc: WELSH & KATZ, LTD.
120 S. RIVERSIDE PLAZA - 22ND FLOOR
CHICAGO IL 60606

---

[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

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John Russell Uren, P. Eng.
Suite 202
1590 Bellevue Avenue
West Vancouver BC V7V 1A7 CA CANADA

In re Application of	:	
WILNECHENKO, BRUCE CONRAD et al.	:	JUN 15 2010
Application No.: 10/999,905	:	DECISION ON
Filing or 371(c) Date: November 29, 2004	:	PETITION
Attorney Docket Number: INT72202	:	

This is a decision on the Petition to Withdraw Holding of Abandonment under 37CFR § 1.81 (a), received in the United States Patent and Trademark Office (USPTO) on June 1, 2010.

This petition is **GRANTED**.

The application was held abandoned for failure to timely submit the corrected drawings as required by the Notice of Allowance, mailed November 30, 2009 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on March 25, 2010.

Petitioner states that the issue fee transmittal was timely filed to the USPTO on March 1, 2010. Petitioner submitted a copy of the original submission which included a statement which attests to the previous timely mailing.

In view of the foregoing, the holding of abandonment for failure to timely submitting issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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CHAN LAW GROUP LC
1055 W. 7TH ST.
LOS ANGELES, CA 90017

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	
Aubrey MCAULEY	
Application No. 10/999,911	DECISION ON PETITION
Filed: November 29, 2004	TO WITHDRAW
Attorney Docket No. 2556.106	FROM RECORD

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 6, 2009.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Chan Law Group LC, have been revoked by the assignee of the patent application on March 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the address indicated below 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: SCHEEF & STONE, LLP
500 N. AKARD, SUITE 2700
DALLAS, TX 75201

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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Hiroaki Jo	: DECISION ON REQUEST FOR
Patent Number	: 7623108	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 10/999,921	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2004	: 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.

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In re Application of	:	
Hideya Seki	:	
Application No. 10/999,934	:	ON PETITION
Filed: December 1, 2004	:	
Attorney Docket No. 121236	:	

This is a decision on the petition, filed April 21, 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 24, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2826 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

RECEIVED
DEC 29 2008
OFFICE OF PETITIONS

In re Application of	:	
Kenji Yamane	:	
Application No. 10/999,980	:	DECISION GRANTING PETITION
Filed: December 1, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 262514US6	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

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.

/AMW/
April M. Wise
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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

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APR 0 4 2006

OFFICE OF PETITIONS

In re Application of	:
Tatsuro Uchida et al	:
Application No. 10/999,993	: DECISION GRANTING PETITION
Filed: December 1, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01272.103532	:

This is a decision on the petition, filed March 27, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 9, 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 2854 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\999993.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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MCDERMOTT WILL & EMERY LLP
ATTN: INTELLECTUAL PROPERTY DEPTARTMENT
28 STATE STREET
BOSTON MA 02109

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OFFICE OF PETITIONS

In re Application of :
Feldman, et al. :
Application No. 10/999,994 :
Filed: December 1, 2004 :
Attorney Docket No. 70297-015 (JUSL-118) :
For: METHOD AND SYSTEM FOR MODELING PROCESSING VEHICULAR TRAFFIC DATA AND INFORMATION AND APPLYING THEREOF

ON PETITION

This is a decision on the petition, filed June 2, 2006 (certificate of mailing date May 30, 2006), under 37 CFR 1.137(b) to revive the above-identified application.

The above-identified application became abandoned for failure to timely submit a reply an extendable one () month period from the mailing of the November 18, 2005 Notice of Non-Compliant Amendment. No response being received and no extensions of time being obtained, this application became abandoned on December 19, 2005. A Notice of Abandonment was mailed on April 7, 2006.

Applicants have submitted an amendment/election in reply to the Notice of Non-Compliant Amendment (and the underlying Office action, a Restriction Requirement mailed September 28, 2005), an acceptable statement of the unintentional nature of the delay in responding to both Office letters, and the petition fee.

The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that petitioner has no knowledge that the delay was in fact unintentional, petitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3663 for consideration of the amendment/election filed on June 2, 2006 (certificate of mailing date May 30, 2006).

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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	: Huashih Lin	: DECISION ON REQUEST FOR
Patent Number	: 7668895	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/000,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/01/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1000** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Bernadette Butz
P.O. Box 993573
Redding CA 96099

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JUN 29 2009

OFFICE OF PETITIONS

In re Application of	:	
Bernadette Etchart Butz	:	
Application No. 11/000,017	:	ON PETITION
Filed: November 29, 2004	:	
Attorney Docket No. Butz - 001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed November 6, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on February 7, 2007

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. 12/386,866, filed April 24, 2009.

Telephone inquiries concerning this decision should be directed to Ron Abelson at (571) 272-3165 or the undersigned at (571) 272-7099.

David Bucci
Petitions Examiner
Office of Petitions

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H. JAY SPIEGEL
P.O. BOX 11
Mount Vernon VA 22121

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AUG 23 2007

OFFICE OF PETITIONS

In re Application of	:	
MILLER, et al.	:	
Application No. 11/000,025	:	DECISION ON PETITION
Filed: December 1, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. **MILLER ZELL-2**	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 26, 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 Harmon B. Miller III, 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 3622 for action on the merits commensurate with this decision.

Monida A. Graves
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

In re Application of
Masato Kato, et al.
Application No. 11/000,031
Filed: December 1, 2004
Attorney Docket No. SHO-0101

ON PETITION

This is a decision in response to the petition, filed October 13, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a Notice of Non-Compliant Amendment mailed March 17, 2006. A Notice of Abandonment was mailed on September 29, 2006. In response, on October 13, 2006, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment with replacement drawings; (2) the petition fee of $1,500.00; and (3) the requisite statement of unintentional delay.

The application is being referred to Technology Center AU 2833 for consideration of the amendment filed October 13, 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.: _____

DATE : 06-07-10

TO SPE OF : ART UNIT 2838

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/000035 Patent No.: 7042196

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Angela Green 703-756-1541
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Ok for entry

/Patrick Assouad/ 2858

SPE **Art Unit**

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON DC 20005

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JAN 3 1 2007

OFFICE OF PETITIONS
ON PETITION

In re Application of :
Mazza et al. :
Application No. 11/000,049 :
Filed: December 1, 2004 :
Attorney Docket No. 78387-67 :

This is a decision on petition to withdraw the holding of abandonment under 37 CFR 1.181 filed January 16, 2007.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application was held abandoned July 8, 2006 for failure to timely reply to the non-final Office Action mailed on April 7, 2006. The non-final Office Action set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed December 4, 2006.

Petitioner asserts that a reply to the non-final Office Action and three month request for extension of time were timely submitted on October 10, 2006. As evidence, petitioner has submitted a copy of a return postcard date stamped by the Office acknowledging receipt of the reply. Since October 7, 2006 was a Saturday and October 9, 2006 was a federal holiday the response received on October 10, 2006 was timely.

The response submitted October 10, 2006 has been located in the Office.

The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn.

The application file is being forwarded to the Technology Center 3600 for further processing of the amendment submitted on petition.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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WWW.USPTO.GOV

Paper No.

WPAT, PC
7225 BEVERLY ST.
ANNANDALE VA 22003

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OFFICE OF PETITIONS

In re Application of Jan Tang Wu et al. Application No. 11/000,073 Filed: December 1, 2004 Attorney Docket No.: 18906-089 Title: METHOD AND APPARATUS FOR CONTROLLING DATA WRITE-IN SPEED IN SYNCHRONIZATION WITH THE ROTATION OF SPINDLE IN AN OPTICAL DRIVE	DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181

This is a decision on the petition filed September 30, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice Requiring Excess Claims Fees (notice), mailed December 17, 2007, which set an extendable one-month period for reply. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on January 18, 2008. A notice of abandonment was mailed on September 5, 2008.

With this petition, Petitioner has asserted that the fee that is associated with the filing of one independent claim in excess of three was electronically submitted to the Office on January 2, 2008. Petitioner has submitted a copy of an "Electronic Acknowledgement Receipt," evincing that $210 was submitted to the Office on this date. Moreover, it is noted that Office records confirm the receipt of $210 on January 2, 2008;

therefore, it is clear that this response was timely received on January 2, 2008.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was filed on December 5, 2007, can receive consideration in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

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 Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries

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

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: WPAT, PC
1940 DUKE STREET
SUITE 200
ALEXANDRIA, VA 22314

---

reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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PITNEY BOWES INC.
35 WATERVIEW DRIVE
MSC 26-22
SHELTON, CT 06484-3000

Mail Date: 04/20/2010

Applicant	: David W. Beckstrom	: DECISION ON REQUEST FOR
Patent Number	: 7571144	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/000,117	: OF WYETH
Filed	: 11/30/2004	:
		:

The Patentee's Request for Recalculation is **DISMISSED.**

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A)concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154 (b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JAN 31 2005

In re Application of	:	
COOPER.	:	
Serial Number: 11/000,127	:	PETITION UNDER
Filed: December 1, 2004	:	M.P.E.P.708.02 IV
For: COMPOSITION TO PRESERVE FOOD	:	

This is in response to the petition filed December 1, 2004, requesting that the above-identified application be granted Special Status under Sections 708.02 IV of the MPEP and 37 CFR 1.102 (**no fee required**).

The request for Special Status considered under Sections 708.02 IV is granted because the criteria under 37 CFR 1.102 have been met.

Accordingly the petition is **GRANTED.**

Richard Crispino, Special Programs Examiner
Technology Center 1700
Chemical and Materials Engineering

Litman Law Offices, LTD.
P.O. Box 15035 Crystal City Station
Arlington, VA 22215

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LITMAN LAW OFFICES, LTD.
P.O. BOX 15035
CRYSTAL CITY STATION
ARLINGTON VA 22215

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OFFICE OF PETITIONS

In re Application of
Cooper
Application No. 11/000,127
Filed: December 1, 2004
Atty. Dkt. No.: 22316.02

DECISION ON PETITION

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed June 11, 2007.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby DISMISSED AS UNTIMELY.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." This is not a final agency decision.

This application became abandoned June 30, 2005 for failure to timely submit a proper reply to the non-final Office action mailed March 29, 2005. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed October 20, 2005.

Petitioner alleges non-receipt of the non-final Office action and has provided supporting documentation, including docketing records.

In accordance with 37 CFR 1.181(f), any petition under 37 CFR 1.181 "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."

Petitioner acknowledges receipt of the Notice of Abandonment. The Notice of Abandonment was mailed October 20, 2005. The instant petition has been submitted nearly two years after the

mailing date of the Notice of Abandonment. Petitioner also states that "[s]ubsequent attempts to rectify the erroneous holding of abandonment by the USPTO were unsuccessful."

A review of the application history does not reveal that a previous petition to withdraw the holding of abandonment has been filed by practitioner.

In view thereof, the petition is deemed untimely submitted.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand delivery: U.S. Patent and Trademark Office
Customer Window, Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CRYSTAL CITY STATION
ARLINGTON, VA 22215

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OFFICE OF PETITIONS

In re Application of
Carl W. Cooper
Application No. 11/000,127
Filed: December 1, 2004
Attorney Docket No. 22316.02

ON PETITION

This is a decision in response to the petition, filed November 13, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed March 29, 2005. A Notice of Abandonment was mailed on October 20, 2005. It is noted that a petition to withdraw the abandonment under 37 CFR 1.181 was filed on June 11, 2007; however, the petition was dismissed in a decision mailed September 17, 2007. On November 13, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 1761 for consideration of the amendment filed November 13, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTBERG LAW OFFICES
569 Clyde Ave, Suite 530
Mountain View, CA 94043

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APR 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Yanming Li	:	
Application No. 11/000,145	:	DECISION ON PETITION
Filed: November 30, 2004	:	TO WITHDRAW
Attorney Docket No. FT05377	:	FROM RECORD
	:	

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 11, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Westberg Law Offices has been revoked by the applicant of the patent application on March 5, 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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Thorne & Halajian**
Applied Technology Center
111 West Main Street
Bay Shore, NY 11706

UNITED STATES PATENT AND TRADEMARK OFFICE

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Mr. Walter J. Tencza, Jr.
Suite 3
10 Station Place
Metuchen, NJ 08840

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JUN 23 2008

OFFICE OF PETITIONS

In re Patent No. 7,280,070 :
Issue Date: October 9, 2007 :
Application No. 11/000,156 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR 1.182, filed November 13, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

Since the statement of lost patent grant was signed by the attorney of record, the petition is **granted**.

The Office of Data Management is directed to issue duplicate Letters Patent.

A copy of this decision is being forwarded to the Office of Data Management for issuance of the duplicate Letters Patent.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

This patent file is being referred to the Files Repository.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250 ext 119.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/OPPD, South Tower 8th Floor, Room C23
FAX No. (571) 270-9753

Walter J. Tencza, Jr.
Suite 210
100 Menlo Park
Edison, NJ 08837

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DUFT BORNSEN & FISHMAN, LLP
1526 SPRUCE STREET
SUITE 302
BOULDER, CO 80302

Mail Date: 04/21/2010

Applicant	: Yigang Cai	: DECISION ON REQUEST FOR
Patent Number	: 7599478	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/000,176	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

POLSINELLI SHALTON
WELTE SUELTHAUS P.C.
700 W. 47TH STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of Robert Dippold and Brenda Wilson Application No. 11/000,253 Filed: November 30, 2004 Attorney Docket No. 68420 Title: SYSTEM AND METHOD FOR ORDER PURCHASING AND FULFILLMENT	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR §1.47, filed July 1, 2005.

The petition is **GRANTED**.

The above-identified application was filed on November 30, 2004, with an unexecuted declaration. Accordingly, on January 4, 2005, a "Notice to File Missing Parts of Nonprovisional Application" was mailed, requiring an executed oath or declaration in compliance with § 1.63 and a surcharge for its late filing. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a).

In response, rule 47 applicants filed the instant petition; the petition fee; the late surcharge; and a declaration executed by joint inventor Wilson on behalf of herself and on behalf of non-signing joint inventor Robert Dippold. Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Dippold has refused to join in the application. This response was made timely by an accompanying petition and fee for extension of time for response within the fourth month.

Patent attorney Jerome Smith submits the statement of facts of Gino Serra, and supporting documentary evidence, rule 47 applicants have shown that inventor Dippold has refused to join in the application. The statement includes details of inventor Dippold's oral refusal to join in the application.

The petition includes the last known address of non-signing inventor Dippold.

The declaration filed July 1, 2005, and the petition 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 new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application will be examined in Technology Center AU 3624 in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT E. DIPPOLD
11907 STEARNS
OVERLAND PARK, KS 66213

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SEP 27 2005

OFFICE OF PETITIONS

In re Application of Robert Dippold and Brenda Wilson Application No. 11/000,253 Filed: November 30, 2004 Attorney Docket No. 68420 Title: SYSTEM AND METHOD FOR ORDER PURCHASING AND FULFILLMENT	LETTER

Dear Mr. Dippold:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be

directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Jerome Smith
POLSINELLI SHALTON
WELTE SUELTHAUS P.C.
700 W. 47th STREET
SUITE 1000
KANSAS CITY, MO 64112-1802

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ECOLAB INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN, MN 55121

Mail Date: 04/20/2010

Applicant	: Nathan D. Peitersen	: DECISION ON REQUEST FOR
Patent Number	: 7611588	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/000,261	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 11/30/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **747** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOFFMAN WARNICK & D'ALESSANDRO
THREE E-COMM SQUARE
ALBANY, NY 12207

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APR 0 6 2005

OFFICE OF PETITIONS

In re Application of	:	
Laurent D. Hasson et al	:	
Application No. 11/000,270	:	DECISION GRANTING
Filed: November 30, 2004	:	PETITION
Attorney Docket No. RSW920040162US	:	

This is a decision on the petition under 37 CFR 1.10 (d), filed March 2, 2005, requesting that the above-identified application be accorded a filing date of November 30, 2004, rather than the presently accorded filing date of November 29, 2004.

Applicants request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on November 30, 2004, pursuant to the requirements of 37 CFR 1.10. Applicants have submitted a copy of the Express Mail receipt number EV505553265US bearing a handwritten "date-in" of November 29, 2004. In support of the request for a November 30, 2004 filing date, the petition is accompanied by a copy of a USPS sales receipt which indicates that the same Express Mail number was accepted on November 30, 2004. The aforementioned Express Mail number appears on the original transmittal papers for the subject application.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on November 30, 2004. Accordingly, the instant application file is entitled to a filing date of November 30, 2004, and has been so accorded.

The petition is granted.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2176 for examination in due course.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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SEP 18 2006
OFFICE OF PETITIONS

In re Application of :
Brian Gallagher :
Application No. 11/000,278 : ON PETITION
Filed: November 30, 2004 :
Attorney Docket Number: GALG/09C2 :
Title of Invention: training Bat and Method :

This is a decision on petition under 37 CFR 1.137(b), filed May 15, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a proper reply to a final Office Action pursuant to 37 CFR §1.113. The final Office Action was mailed on November 8, 2005 and set a three (3) month shortened statutory period for reply. A Request for Continued Examination (RCE) was submitted with a three month extension of time on May 9, 2006. A Notice of Improper RCE was mailed on May 9, 2006. Accordingly, this application became abandoned on May 10, 2006. This decision precedes the mailing of a Notice of Abandonment.

This petition is hereby **Granted**.

The two-month period for filing an appeal brief (accompanied by the fee required by 37 CFR 1.17(c)), runs from the date of this decision.

This application is being referred to Technology Center 3700 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/29/08

TO SPE OF : ART UNIT 2611 David Lugo

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/000304 Patent No.: 7388933

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

HR

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: All changes approved - DL

Shawn Lu
SPE

2611
Art Unit