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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Akihiro Maeda	: DECISION ON REQUEST FOR
Patent Number	: 7640966	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,571	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **760** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

Attorney Docket No.: 65678-0066 EL 970864396 US

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MICHAEL B. STEWART
RADER FISHMAN & GRAUER
39533 WOODWARD AVENUE, SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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JUN 1 7 2002

OFFICE OF PETITIONS

In re Application of
John W. Melby et al
Application No. 09/702,363
Filed: October 31, 2000
Attorney Docket No: 65678-0031

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

This is in response to the petition filed by facsimile transmission on June 11, 2002, requesting reconsideration of the decision mailed February 11, 2002, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is granted.

Petitioner has shown that the nonsigning inventors (Andrew F. Suhy, Jr., and Brent C. Parent) have refused to join in the filing of the above-identified application.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-8680.

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

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

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MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of

MILLER, et al.
Application No. 11/005,605
Filed: December 4, 2004
Attorney Docket No. **50741-000023/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 June 27, 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 Suneel Arora 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: THOMAS I. MILLER
145 ELFIN STREET
PALM BAY, FL 32909

cc: RICHARD W. WARNER
HARNESS DICKEY & PIERCE, PLC
5445 CORPORATE DRIVE
TROY, MI 48098

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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
11/005,606	12/06/2004	1753	505	6818-110	15	25	3

CONFIRMATION NO. 4095

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

UPDATED FILING RECEIPT

OC000000015162214

Date Mailed: 02/11/2005

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

Applicant(s)

Max Saelzer, Davie, FL;
Roger Messenger, Boca Raton, FL;

Assignment For Published Patent Application

Florida Atlantic University, Boca Raton, FL

Power of Attorney: The patent practitioners associated with Customer Number **30448**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 01/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/005,606

Projected Publication Date: 06/08/2006

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Powering a vehicle and providing excess energy to an external device using photovoltaic cells

Preliminary Class

136

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	:	
SOLAR, Matthew S. et al.	:	
Application No. 11/005,607	:	DECISION ON PETITION
Filed: December 04, 2004	:	TO WITHDRAW
Attorney Docket No. **723.075US1**	:	FROM RECORD

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 27, 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 Suneel Arora on behalf of all attorneys of record who are associated with customer No. 21186. 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.

J. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MATTHEW S. SOLAR**
290 NORMANDY DRIVE
INDIALANTIC, FL 32903

cc: **RICHARD W. WARNER**
HARNESS, DICKEY & PIERCE, P.L.C.
5445 CORPORATE DRIVE
TROY, MI 48098

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/005,607	12/04/2004	Matthew S. Solar	

CONFIRMATION NO. 4099

OC000000025447047

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 08/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

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

Michelle R. Eason

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

FORMER ATTORNEY/AGENT COPY

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Paper No.

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

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OFFICE OF PETITIONS

Applicant: Bergnes	: DECISION ON PETITION
Issue Date: Oct. 21, 2008	: 37 CFR 1.705(d)
Application No: 11/005,629	:
Patent No. 7,439,254	: REQUEST FOR PATENT
Filed: April 22, 2005	: ADJUSTEMENT
Attorney Docket: 09367.0095-000	: RECONSIDERATION

This is a decision on the petition filed on December 18, 2008, 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 eight hundred and fifty-eight (858) 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 eight hundred and fifty-eight (858) days is **GRANTED.**

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and fifty-eight (858)** days.

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

Telephone inquiries specific to this matter should be directed to Maria Nuzzolillo, (571) 272-8150.

/Kery Fries/

Kery Fries

Senior Legal Advisor Attorney
Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,439,254 B2

DATED : October 21,2008 **Draft**

INVENTOR(S) : Bergnes

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 (858) days

Delete the phrase "by 539 days" and insert – by 858 days--

Day : Friday
Date: 4/23/2010

PALM INTRANET

Time: 13:53:02

PTA Calculations for Application: 11/005629			
Application Filing Date:	12/07/2004	PTO Delay (PTO):	539
Issue Date of Patent:	10/21/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	0
Post-Issue Petitions:	0	Total PTA (days):	858
PTO Delay Adjustment:	319		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
59	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		319	
58	04/23/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	319		
57	04/20/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	319		
53.5	10/01/2008	PTA 36 MONTHS			
53	10/21/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
52	09/22/2008	EXPORT TO FINAL DATA CAPTURE			
51	09/19/2008	FINISHED INITIAL DATA CAPTURE			
50	09/19/2008	DISPATCH TO FDC			
49	09/03/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
48	08/29/2008	ISSUE FEE PAYMENT VERIFIED			
47	08/29/2008	ISSUE FEE PAYMENT RECEIVED			
46	06/06/2008	EXPORT TO INITIAL DATA CAPTURE			
45	06/04/2008	MAIL NOTICE OF ALLOWANCE			
44	06/02/2008	ISSUE REVISION COMPLETED			
43	06/02/2008	DOCUMENT VERIFICATION			
42	05/30/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
41	05/30/2008	NOTICE OF ALLOWABILITY			
40	03/07/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
36	03/07/2008	REFERENCE CAPTURE ON IDS			
35	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	33
34	04/07/2008	DATE FORWARDED TO EXAMINER			
33	03/07/2008	RESPONSE AFTER NON-FINAL ACTION			

32	03/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
31	12/11/2007	MAIL NON-FINAL REJECTION			
30	12/10/2007	NON-FINAL REJECTION			
29	06/03/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	09/24/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
26	09/24/2007	REFERENCE CAPTURE ON IDS			
25	09/24/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	23
24	10/04/2007	DATE FORWARDED TO EXAMINER			
23	09/24/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
22	09/24/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
20	07/31/2007	MAIL RESTRICTION REQUIREMENT	539		-1
19	07/27/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
16	11/03/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	06/03/2005	REFERENCE CAPTURE ON IDS			
14.7	06/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/03/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/03/2005	PRELIMINARY AMENDMENT			
12	11/03/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	07/14/2005	APPLICATION DISPATCHED FROM OIPE			
10	07/14/2005	APPLICATION IS NOW COMPLETE			
9	06/03/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
8	06/03/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	12/07/2004	CLAIM PRELIMINARY AMENDMENT			
6	04/04/2005	CLEARED BY L&R (LARS)			
3	12/27/2004	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/18/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/07/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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CONLEY ROSE, P.C.
DAVID A. ROSE
P. O. BOX 3267
HOUSTON, TX 77253-3267

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FEB 26 2008

In re Application of	:	
HUANG, Yi-Chen C. et al.	:	
Application No. 11/005,636	:	DECISION ON PETITION
Filed: December 06, 2004	:	TO WITHDRAW
Attorney Docket No. **60327.7USI1**	:	FROM RECORD
	:	

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 05, 2008.

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

A review of the file record indicates that the power of attorney to CONLEY ROSE, P.C. has been revoked by the applicant of the patent application on February 12, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MERCHANT & GOULD PC**
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/09/09

TO SPE OF : ART UNIT 1645

SUBJECT : Request for Certificate of Correction for Appl. No.: 11005636 Patent No.: 7597895

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.

X **Approved** — **All** changes apply.

☐ **Approved in Part** — Specify below which changes **do not** apply.

☐ **Denied** — State the reasons for denial below.

Comments: _____

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Robert Mondesi/ 1645

SPE Art Unit

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COATS & BENNETT/SONY ERICSSON
1400 CRESCENT GREEN
SUITE 300
CARY, NC 27518

Mail Date: 04/21/2010

Applicant	: Stephen K. Forbes	: DECISION ON REQUEST FOR
Patent Number	: 7596102	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

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OFFICE OF PETITIONS

In re Application of	:	
Hanrahan, et al.	:	
Application No. 11/005,652	:	ON PETITION
Filed: December 2, 2004	:	
Attorney Docket No. 61127-5001 US	:	

This is a decision on the petition under 37 CFR 1.10(c), filed May 16, 2005, requesting that the above-identified application be accorded a filing date of December 2, 2004, rather than the presently accorded filing date of December 3, 2004. The petition was recently forwarded to this office for consideration.

Petitioners allege that the application was deposited in Express Mail service on December 2, 2004. In support, the petition is accompanied by a copy of Express Mail Receipt No. EV533735811US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 2, 2004.

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

Accordingly, the application is entitled to a filing date of December 2, 2004.

The application is being returned to the Office of Initial Patent Examination for processing with a filing date of December 2, 2004 and issuance of a corrected filing receipt.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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DAFFER McDANIEL LLP
P O BOX 684908
AUSTIN, TX 78768

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of	:	
Kenong Wu et al	:	
Application No. 11/005,658	:	DECISION ON PETITION
Filed: December 7, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5589-09100	:	

This is a decision on the petition, filed June 1, 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 December 7, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 28, 2006 has been mailed under separate cover.

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

This application is being referred to Technology Center Art Unit 2624 for examination in due course.

Frances Hicks
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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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

Applicant	: Matthew K. Lum	: DECISION ON REQUEST FOR
Patent Number	: 7624488	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,667	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **792** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HELLER EHRMAN LLP
4350 LA JOLLA VILLAGE DRIVE, SUITE 700
SAN DIEGO, CA 92121

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JUN 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Roman et al.	:	DECISION ON PETITION
Application No. 11/005,671	:	TO WITHDRAW
Filed: December 6, 2004	:	FROM RECORD
Attorney Docket No. 026282-000100US	:	

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

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

A review of the file record indicates that the power of attorney to the attorneys/agents associated with Customer Number 33123 has been revoked by the assignee of the entire interest of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

cc:

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

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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
11/005,675	12/06/2004	1755	2010	63833-5056	5	61	7

CONFIRMATION NO. 3669

UPDATED FILING RECEIPT

OC000000016325488

24574
JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES, CA 90067

Date Mailed: 06/20/2005

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

Applicant(s)

John Daniel Belnap, Pleasant Grove, UT;
Stewart N. Middlemiss, Salt Lake City, UT;
Anthony Griffo, The Woodlands, TX;
Thomas W. Oldham, The Woodlands, TX;
Kumar T. Kembaiyan, The Woodlands, TX;

Assignment For Published Patent Application

Smith International, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **24574**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/005,675

Projected Publication Date: 06/08/2006

Non-Publication Request: No

Early Publication Request: No

Title

Thermally-stable polycrystalline diamond materials and compacts

Preliminary Class

051

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/005,678	12/07/2004	Glenn E. Riggs	ODYS.P001CON	3619

28752 7590 04/22/2008
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1 CHASE ROAD
SCARSDALE, NY 10583

EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
04/22/2008	PAPER

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

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TECHNOLOGY CENTER 3600

Robert M. Bauer
LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

In re Application of:	:	**DECISION ON PETITION**
Glenn Riggs et al.	:	**UNDER 37 CFR 1.181**
Application No. 11/005,678	:	
Filed: December 7, 2004	:	
Attorney Docket No.: 6065/1 Cont.	:	
For: Transport Logistics Systems and Method	:	

This is in response to Applicants' petition under 37 CFR 1.181 filed October 22, 2007 requesting withdrawal of the finality of the Office action mailed July 20, 2007 as being premature.

The Petition is **DISMISSED.**

Applicant alleges that the final rejection mailed July 20, 2007 is premature because (1) the examiner has introduced a new grounds of rejection, and (2) the Examiner's rejections of the claims based on the official notice were improper and the challenge to such Official Notice has not been properly addressed.

MPEP 706.07(a) sets forth that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is neither necessitated by applicants' amendment nor based on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p).

Applicant has argued that the office action, dated July 20, 2007, should not have been made final based on the argument that new grounds of rejection have been introduced, that the applicant has not had the chance to respond to. Applicant is admitting that amendments made to the claims in the response dated August 3, 2006, to the first office action mailed on February 5, 2005, were to overcome the rejection of claims under 35 U.S.C. 112 2nd paragraph. However, the amendments did not remedy the deficiencies pointed out by the examiner in the first office action. Therefore, as the amendments did not clarify the issues the rejections were

maintained by the examiner in final office action mailed on April 5, 2007. Subsequent to the final office action mailed on April 5, 2007, on July 18, 2007, there was an interview between the applicant, the examiner and the examiner's supervisor and the issues of finality of the office action was discussed. Following the interview, another final office action dated July 20, 2007 was mailed so as to clarify the examiner's position concerning the rejected under 35 U.S.C. 112 2nd paragraph and further explain why the rejections under 35 U.S.C. 112 2nd paragraph has been maintained based on the original rejection.

A review of the record reveals that Examiner has responded to Applicant's arguments as a whole and has shown specific arguments to support examiner's position with respect to the language of the claims as they have been rejected under 35 U.S.C. 112 2nd paragraph. Examiner has made a good faith effort to respond to Applicant's arguments as well as provide guidance on how to remedy the deficiency of the claims as in regards to the 35 U.S.C. 112 2nd paragraph rejection in both the final action mailed on April 5, 2007 and subsequent second final action that was mailed on July 20, 2007 with a substantial discussion on the merits of the rejection under 35 U.S.C. 112 2nd paragraph. Furthermore, the MPEP clearly states that the second or any subsequent action on the merits shall be made final except where the examiner introduces a new ground of rejection that is not necessitated by applicant's amendment. A review of the record further reveals that the examiner has maintained the same rejection under 35 U.S.C. 112 2nd paragraph all through the prosecution as originally rejected in the office action mailed on August 3, 2006.

As discussed by the examiner in the original and subsequent office actions and here in office action mailed on July 20, 2007; the preamble of claims 1-25 introduces them as system (i.e., apparatus) claims. As evidenced by Applicant's admission that the recited modules "may or may not be software only," the scope of claims 1-25 is left ambiguous since apparatus claims are defined in terms of their structure rather than function. Without knowing if the functionality of claims 1-25 is directly tied into any structural elements, the metes and bounds of claims 1-25 are unclear. For example, the modules may be interpreted as software per se, which means that no structural elements are required in this interpretation of the claims.

With regards to the rejection of claims 2 and 4 under 35 U.S.C. § 112, 2nd paragraph, applicant's arguments have been closely reviewed and they are not persuasive. As the grounds of rejection under 35 U.S.C. § 112, 2nd paragraph, **have not been changed** during the prosecution, but merely expanded upon for clarity, as outlined above, the rejection in the latest office action mailed on July 20, 2007 is seen as being proper.

After further reviewing the record, the Examiner's Final office action includes rejections for all the claims and their limitations. There is no requirement that the rejection be structured in such a way as to separately identify each claim and its limitations, so long as each limitation of the claims are met by the rejection.

Additionally, the Applicant's challenge to the official notice that was issued by the Examiner in the office action mailed on August 3, 2006, is not sufficiently addressing the issues. The

official notice was addressed by the examiner in the final office action dated April 20, 2007 and subsequently in the final office action mailed on July 20, 2007.
The position of the examiner has been that of the applicant has not provided enough explanation or show evidence to the contrary of the official notice presented in the office action. The point is that the challenge has not been sufficient in its specifically pointing out the deficiencies in the notice.

Applicant has not "specifically point[ed] out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art." Applicant must adequately point out as what is the error in examiners assertion of the Official Notice (MPEP 2144.03(c)). Applicant's assertion that "they do not accept rejections based on Official Notice" amounts to nothing more than an unsupported challenge. Similarly, a broad challenge of Official Notice without any explanation as to why the Official Notice statement itself is allegedly not true is an inadequate challenge of Official Notice. Consequently, the statements of Official Notice made in the art rejection have been established as admitted prior art due to Applicant's failure to adequately traverse the Examiner's assertions of Official Notice. Therefore, Applicant has not sufficiently switched back to the Examiner the burden of supplying references in support of her assertions of Official Notice.

For the foregoing reasons, the finality of the office action mailed on July 20, 2007 is proper and no abuse of discretion or arbitrary or capricious action is evidenced and accordingly the petition to withdraw the finality of the final office action mailed July 20, 2007 is denied.

The application will be forwarded to the examiner of record to treat the amendment filed concurrently with the petition of October 22, 2007. An advisory has been forwarded to the applicant on February 8, 2008.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

Summary: Petition Dismissed

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5250

Ka/sm: 4/15/08

SM

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/005,678	12/07/2004	Glenn E. Riggs	ODYSS.P001CON1	3619

28752 7590 10/27/2008
LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE, NY 10583

EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3692	

MAIL DATE	DELIVERY MODE
10/27/2008	PAPER

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

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

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Robert M. Bauer
LACKENBACH SIEGEL, LLP
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SCARSDALE, NY 10583

In re Application of:	:	**DECISION ON PETITION**
Glenn Riggs et al.	:	**UNDER 37 CFR 1.181**
Application No. 11/005,678	:	
Filed: December 7, 2004	:	
Attorney Docket No.: 6065/1 Cont.	:	
For: Transport Logistics Systems and Method	:	

This is in response to Applicants' request for reconsideration of the petition decision mailed April 22, 2008. The instant petition was timely filed on June 23, 2008.

The Petition is **DENIED.**

Applicants have argued that the Office action mailed July 20, 2007 should not have been made final because a new ground of rejection of claims 1-25 under 35 USC 112, second paragraph, was introduced. Additionally applicants want a clarification of the decision on petition entered on April 22, 2008 indicating that "although the merits of applicants' arguments in the Petition for Withdrawal of Finality were considered, there are two instances in which the Decision indicates the disposition of the Petition as being "Dismissed"."

The authority to render a decision on petitions invoking the supervisory authority of the Director of the USPTO under 37 CFR 1.181 involving any *ex parte* action or requirement in a patent application by the examiner which is not subject to appeal and not otherwise provided for, has been delegated to the Technology Center Directors (MPEP § 1002.02(c)3(a)). The dismissal of a petition provides the applicant an opportunity to bring in additional arguments and request reconsideration of the petition by the Technology Center Director. However, no such opportunity to request reconsideration by the Technology Center Director is given when the petition is denied. The Office of the Deputy Commissioner for Patent Examination Policy has decision-making authority over Applicant's petition. MPEP § 1002.02(b)(15).

With respect to the merits of the instant petition to withdraw the finality of the Office action mailed July 20, 2007, below is a summary of the specifics that are related to the current arguments put forward by the applicants on page 2, last paragraph through page 3, first paragraph.

Subsequent to the interview that was conducted on July 18, 2007, with the applicants' representative Robert Bauer, SPE James P. Trammell and Primary Examiner Susanna M. Diaz it was agreed that the examiner, for the purpose of clarity, will issue a new final office action and would further clarify the position of the Office relative to the rejections based on 35 U.S.C. 112 2nd paragraph as it is clearly stated in the interview summary page 3 as it states "The rejections under 35 U.S.C. § 112, 2nd paragraph were discussed. Mr. Bauer requested clarification regarding the wording of these rejections." Also, in the final Office action mailed on July 20, 2007, page 2, end of the first paragraph clearly refers to the fact that request was made by the applicants to clarify the rejection under 35 U.S.C. § 112, 2nd paragraph "This supplemental final Office action is responsive to Applicant's amendment filed February 5, 2007 and to the interview conducted with Applicant's representative Robert Bauer (Reg. No. 34,487) on July 18, 2007. During this interview, Mr. Bauer requested clarification regarding the finality of the restriction requirement as well as clarification in relation to the rejections under 35 U.S.C. § 112, 2nd paragraph." Which subsequently, the examiner has provided such clarification and further details in the "Response to Arguments" section of the Office Action that was mailed on July 20, 2007. The section that applicant has mentioned that "additional requirements (as shown by the underlining in the quotation on page 3 of the Petition) of "express integration of the modules..." or that "software modules must be directly tied into structural elements."" are clearly articulated by the examiner as how to remedy the deficiencies of the claims. Examiner only clarified the offices position in regards to the amendments made on February 5, 2007 by the applicant. There have been no changes in the rejection of the claims under the specific heading 35 U.S.C. § 112, 2nd paragraph and the examiner merely has expanded on the arguments for clarification as requested by the applicant's representative.

As discussed by the examiner in the original and subsequent Office actions and in the Office action mailed on July 20, 2007; the preamble of claims 1-25 introduces them as system (i.e., apparatus) claims. As evidenced by Applicant's admission that the recited modules "may or may not be software only," the scope of claims 1-25 is left ambiguous since apparatus claims are defined in terms of their structure rather than function. Without knowing if the functionality of claims 1-25 is directly tied into any structural elements, the metes and bounds of claims 1-25 are unclear. For example, the modules may be interpreted as software per se, which means that no structural elements are required in this interpretation of the claims.

For the foregoing reasons, the finality of the Office action mailed on July 20, 2007 is proper and no abuse of discretion or arbitrary or capricious action is evidenced and accordingly the petition to withdraw the finality of the final office action mailed July 20, 2007 is denied.

The application will be forwarded to the examiner of record to treat the Appeal Brief filed on July 22, 2007.

Questions concerning this decision should be referred to SPE Kambiz Abdi at (571) 272-6702.

Summary: Petition Denied

Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350
TR

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SEP 02 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Glenn E. Riggs et al.	:	
Application No. 11/005,678	:	
Filed: December 7, 2004	:	
Attorney Docket No.: ODYSS.P001CON1	:	

This is a decision on the petition filed December 23, 2008 under 37 CFR 1.181 and supplemented January 22, 2009, requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3600 (Technology Center Director), dated October 27, 2008, which refused to withdraw the finality of the July 20, 2007 Office action or reverse the examiner's use of Official Notice in the 35 USC 103 rejection as set forth in the final Office action.

In view of the Examiner's Answer mailed August 31, 2009, the petition to overturn the decision of the Technology Center Director dated October 27, 2008, is **DISMISSED** as being moot.

Telephone inquires concerning this decision should be directed to Carl Friedman at (571) 272-6842.

Charles Pearson
Director, Office of Petitions

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1 CHASE ROAD
SCARSDALE NY 10583

MAILED
APR 27 2010
OFFICE OF PETITIONS

In re Application of: William Y. Guess :
Application No.: 11/005,678 :
Filed: December 7, 2004 : ON PETITION
For: TRANSPORT LOGISTICS :
SYSTEMS AND METHODS :

This is a supplemental decision on the petition under 37 CFR 1.181 filed December 23, 2008, and supplemented January 22, 2009, requesting that the Director exercise his supervisory authority and overturn the decision of the Director of Technology Center 3600 (Technology Center Director), dated October 27, 2008, which decision refused to *inter alia* withdraw the finality of the Office action of July 20, 2007.

The petition is **granted** as discussed in this decision.

On September 2, 2009, the United States Patent and Trademark Office (USPTO) issued a decision dismissing the petition of December 23, 2008, as moot in view of the supplemental examiner's answer mailed August 31, 2009. The supplemental examiner's answer of August 31, 2009 included new grounds of rejection while withdrawing the rejection based on Official Notice, thus essentially providing the relief sought by the petition of December 23, 2008. Subsequent events, however, necessitate a clarification of the decision of September 2, 2009.

On December 3, 2009, the Board of Patent Appeals and Interferences (BPAI) issued an Order expressing its view that the supplemental examiner's answer mailed August 31, 2009 did not provide the opportunity to reopen prosecution pursuant to 37 CFR 41.50(a)(2). The BPAI returned the application to the examiner to either: (1) withdraw the new grounds of rejection; or (2) reopen prosecution to enter the new grounds of rejection. On December 17, 2009, Petitioner requested that BPAI reconsider its December 3, 2009 Order returning the appeal to the examiner. On March 9, 2010, the BPAI issued an Order that dismissed as moot the December 17, 2009 request for reconsideration because jurisdiction over the appeal had been passed back to the examiner. On March 10, 2010, Petitioner appealed the BPAI's Orders to the United States Court of Appeals for the Federal Circuit. Meanwhile, an action regarding the various petitions filed in this application remains pending before the United States District Court for the Eastern District of Virginia.

Because the state of prosecution is at least uncertain, and because that uncertainty may cast doubt on whether the December 23, 2008 petition is actually moot, the decision of September 2, 2009, dismissing the petition of December 23, 2008 is hereby withdrawn.

The petition of December 23, 2008 is being **granted** by directing that the Technology Center to either withdraw the rejections based upon the taking of "official notice" or enter new grounds of rejection in a new non-final Office action that supports the finding previously set forth by the taking of "official notice" with adequate evidence per MPEP 2144.03(C).[1]

This application is being forwarded to TC 3600 for appropriate action consistent with this decision.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571) 272-3687.

Robert W. Bahr
Acting Associate Commissioner for
Patent Examination Procedure

AK

[1] A petition under 37 CFR 1.181 is available "[f]rom any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court." *See* 37 CFR 1.181(a). Whether "official notice" has been properly taken in a particular situation goes to the merits of the rejection being supported by the taking of "official notice" and is thus properly reviewable via appeal to the BPAI and not via a petition under 37 CFR 1.181. *See In re Hengehold*, 440 F.2d 1395, 1404 (CCPA 1971) ("the kind of adverse decisions that are reviewable by the board must be those which relate, at least indirectly, to matters involving the rejection of the claims."). However, in this situation the undersigned has contacted the Director of Technology Center 3600 and she has agreed to take the course of action specified in this decision.

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LACKENBACH SIEGEL, LLP
LACKENBACH SIEGEL BUILDING
1 CHASE ROAD
SCARSDALE NY 10583

MAILED

APR 2 9 2010

OFFICE OF PETITIONS

In re Application of: Riggs et al. :
Application No.: 11/005,678 :
Filed: December 7, 2004 : ON PETITION
For: TRANSPORT LOGISTICS :
SYSTEMS AND METHODS :

This is a supplemental decision on the petition under 37 CFR 1.181 filed December 23, 2008, and supplemented January 22, 2009, requesting that the Director exercise his supervisory authority and overturn the decision of the Director of Technology Center 3600 (Technology Center Director), dated October 27, 2008, which decision refused to *inter alia* withdraw the finality of the Office action of July 20, 2007.

The petition is **granted** as discussed in this decision.

On September 2, 2009, the United States Patent and Trademark Office (USPTO) issued a decision dismissing the petition of December 23, 2008, as moot in view of the supplemental examiner's answer mailed August 31, 2009. The supplemental examiner's answer of August 31, 2009 included new grounds of rejection while withdrawing the rejection based on Official Notice, thus essentially providing the relief sought by the petition of December 23, 2008. Subsequent events, however, necessitate a clarification of the decision of September 2, 2009.

On December 3, 2009, the Board of Patent Appeals and Interferences (BPAI) issued an Order expressing its view that the supplemental examiner's answer mailed August 31, 2009 did not provide the opportunity to reopen prosecution pursuant to 37 CFR 41.50(a)(2). The BPAI returned the application to the examiner to either: (1) withdraw the new grounds of rejection; or (2) reopen prosecution to enter the new grounds of rejection. On December 17, 2009, Petitioner requested that BPAI reconsider its December 3, 2009 Order returning the appeal to the examiner. On March 9, 2010, the BPAI issued an Order that dismissed as moot the December 17, 2009 request for reconsideration because jurisdiction over the appeal had been passed back to the examiner. On March 10, 2010, Petitioner appealed the BPAI's Orders to the United States Court of Appeals for the Federal Circuit. Meanwhile, an action regarding the various petitions filed in this application remains pending before the United States District Court for the Eastern District of Virginia.

Because the state of prosecution is at least uncertain, and because that uncertainty may cast doubt on whether the December 23, 2008 petition is actually moot, the decision of September 2, 2009, dismissing the petition of December 23, 2008 is hereby withdrawn.

The petition of December 23, 2008 is being **granted** by directing that the Technology Center to either withdraw the rejections based upon the taking of "official notice" or enter new grounds of rejection in a new non-final Office action that supports the finding previously set forth by the taking of "official notice" with adequate evidence per MPEP 2144.03(C).[1]

This application is being forwarded to TC 3600 for appropriate action consistent with this decision.

Telephone inquiries concerning this decision should be directed to Anthony Knight at (571) 272-3687.

Robert W. Bahr
Acting Associate Commissioner for
Patent Examination Procedure

AK

[1] A petition under 37 CFR 1.181 is available "[f]rom any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court." *See* 37 CFR 1.181(a). Whether "official notice" has been properly taken in a particular situation goes to the merits of the rejection being supported by the taking of "official notice" and is thus properly reviewable via appeal to the BPAI and not via a petition under 37 CFR 1.181. *See In re Hengehold*, 440 F.2d 1395, 1404 (CCPA 1971) ("the kind of adverse decisions that are reviewable by the board must be those which relate, at least indirectly, to matters involving the rejection of the claims."). However, in this situation the undersigned has contacted the Director of Technology Center 3600 and she has agreed to take the course of action specified in this decision.

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Kewei Yang	: DECISION ON REQUEST FOR
Patent Number	: 7602806	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,686	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Kewei Yang
Patent Number : 7602806
Issue Date : 10/13/2009
Application No: 11/005,686
Filed : 12/07/2004

: 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 **1271** 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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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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OFFICE OF PETITIONS

In re Application of	:	
Richard T. Schultz, et. al.	:	
Application No. 11/005,690	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. LSIL06US01 (04-1590)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on December 27, 2007, 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 Russell S. Krajec appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. A courtesy copy of this decision is being mailed to petitioner. Nevertheless, all future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

The petition is **DISMISSED AS MOOT**.

A review of the record shows that a final Office action was issued on September 26, 2007, which set a three month shortened statutory period for reply. On December 27, 2007, the present petition and an after final amendment were filed in response to the Office action. On December 28, 2007, petitioner subsequently filed $120 for a one month extension of time and a request to withdraw the petition to revive under 37 CFR 1.137(b)filed on December 27, 2007.

Since petitioner timely filed a one month extension of time on December 28, 2007, which was within the extendable period for reply, this case is not considered abandoned and the instant

petition and petition fee of $1,540 is unnecessary and will be refunded back to petitioner's credit card, in due course.

This application is being referred to Technology Center Art Unit 2825, 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: Russell S. Krajec
Krajec Patent Offices, LLC
820 Welch Avenue
Berthoud, CO 80513

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Paper No.

Schwegman, Lundberg,
Woessner & Kluth, P.A.
Attn: Edward J. Brooks, III
P.O. Box 2938
Minneapolis MN 55402

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SEP 25 2006

OFFICE OF PETITIONS

In re Patent No. 7,054,532	:	
Forbes et al.	:	DECISION ON REQUEST FOR
Application No. 11/005,712	:	RECONSIDERATION OF
Filed: December 7, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 1303.034US2	:	and
	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR POST ISSUE PATENT TERM ADJUSTMENT," filed August 2, 2006. Patentees request that the patent term adjustment indicated in the patent be corrected from sixty-three (63) days to one hundred thirteen (113) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred thirteen (113)** days.

On May 30, 2006, the above-identified application matured into U.S. Patent No. 7,054,532. The instant request for reconsideration filed August 2, 2006 (certificate of mailing dated Monday, July 31, 2006), was timely filed within 2 months of the date the patent issued. See § 1.705(d). The patent issued with a revised Patent Term Adjustment (PTA) of sixty-

three (63) days. Patentees dispute a reduction of 50 days associated with a "miscellaneous incoming letter" shown in the PAIR transactions to have been filed on August 12, 2005. Patentees state that no additional documents/amendments etc. have been filed by us after the receipt of the Notice of Allowance, which may have necessitated reduction of the Patent Term by 50 days. Rather, patentees point out that on August 12, 2005, the Office mailed an Examiner's Interview Summary.

Patentees' arguments are well taken. A review of the application record corroborates patentees' claim that no paper warranting a reduction pursuant to 1.704(c)(10) was filed. As such, it is concluded that the reduction of fifty (50) days for filing such a paper is not warranted.

In view thereof, the patent term adjustment indicated in the patent should have been one hundred thirteen (113) days.

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

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **ONE HUNDRED THIRTEEN (113)** days.

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: DRAFT certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,054,532 B2

DATED : May 30, 2006

INVENTOR(S) : Forbes et al.

DRAFT

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (63) days

Delete the phrase "by 63" and insert – by 113 days--

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JUN 14 2005

EDWARD M. LIVINGSTON, PA
963 TRAIL TERRACE DRIVE
NAPLES FL 34103

In re Application of	:	
Margaret H. Lee et al	:	
Serial No.: 11/005,714	:	DECISION ON PETITION
Filed: December 7, 2004	:	
For: Quilting Press Table and Method of Use	:	

This is in response to applicants' petition filed December 7, 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

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Director's Office
Group 3700

Tipton L. Randall
19371 55th Avenue
Chippewa Falls, WI 54729

In re application of
John J. Imre et al.

Serial Number: 11/005730
Filed: December 6, 2004

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

For: **FREEDOM FRIDGE DEVICE**

This is a decision on the petition filed on December 6, 2004, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

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

rt: 7/1/05

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

Mail Date: 04/21/2010

Applicant	: Nobuhisa Ishida	: DECISION ON REQUEST FOR
Patent Number	: 7666538	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,747	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Orum & Roth LLC
53 W. Jackson Boulevard
Chicago IL 60604-3606

In re Application of	:	
SASAKI, et al.	:	
Application No. 11/005,777	:	DECISION ON PETITION
Filed: December 07, 2004	:	TO WITHDRAW
Attorney Docket No. 14001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 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 Catherine L. Gemrich.

Catherine L. Gemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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JUN 29 2010
OFFICE OF PETITIONS

In re Application of :
BENNETT et al. :
Application No. 11/005,798 : ON APPLICATION FOR
Filed: 12/07/2004 : PATENT TERM ADJUSTMENT
Attorney Docket No. 1671-0318 :

This is in response to the "REQUEST FOR RECONSIDERATION OF THE PATENT TERM ADJUSTMENT" filed March 22, 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 1153 days, not 873 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]

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).

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

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

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Timothy M. Kelley
MICHAEL, BEST & FRIEDRICH
100 East Wisconsin Avenue
Milwaukee WI 53202-4108

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of :
Landvik, et al. :
Application No. 11/005,803 : ON PETITION
Filed: December 7, 2004 :
Attorney Docket No. 070163-9005-03 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 22, 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 March 20, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed December 19, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed April 16, 2008.

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

The instant petition lacks item (1). It is noted that applicant has submitted a request for continued examination (RCE) with the instant petition. However, 35 U.S.C. 41(a)(7) and 151 each require payment of the issue fee as a condition of reviving an application abandoned or patent lapsed for failure to pay the issue fee. Further, in an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee. *See*, MPEP 711.03(c).

Any renewed petition must include the required issue fee $1,440.00) and publication fee ($300.00).

It is noted that the instant petition includes a general authorization to charge fees to petitioner's deposit account. However, the general authorization lacks a clear intent to pay the issue fee, or fees under 37 CFR 1.18. Therefore, the fees have not been charged. *See*, MPEP 1306.

As to item (3), 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.

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

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

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

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

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

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

Timothy M. Kelley
MICHAEL, BEST & FRIEDRICH
100 East Wisconsin Avenue
Milwaukee WI 53202-4108

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SEP 22 2008

OFFICE OF PETITIONS

In re Application of
Landvik, et al.
Application No. 11/005,803
Filed: December 7, 2007
Attorney Docket No. 070163-9005-03

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned March 20, 2008 for failure to timely submit a proper reply to the Notice of Allowance and Issue Fee Due (Notice) mailed December 19, 2007. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed April 16, 2008.

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

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

This application is being referred to Group Art Unit 1794 for appropriate action by the Examiner in the normal course of business on the reply received August 20, 2008.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LUEDEKA, NEELY & GRAHAM, P.C.
P O BOX 1871
KNOXVILLE, TN 37901

Mail Date: 04/21/2010

Applicant	: Nisha Biswas	: DECISION ON REQUEST FOR
Patent Number	: 7645314	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: 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.

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

FLEIT, GIBBONS, GUTMAN,
BONGINI & BIANCO P.L.
551 N.W. 77TH STREET, SUITE 111
BOCA RATON FL 33487

COPY MAILED
DEC 1 1 2008

In re Application of	:	
Eugene R, TSEITLIN, et al	:	
Application No. 11/005,835	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. CE11490JSW	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before September 16, 2008. As required by the Notice of Allowance and Fee(s) Due, mailed June 16, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on September 17, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the Issue Fee of $1440 and Publication Fee of $300; (2) the petition fee of $1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

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

Thurman Page
Petitions Examiner
Office of Petitions

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: __

GEORGE YAHWAK, ESQ.
555 LONG WHARF DRIVE, 9TH FLOOR
NEW HAVEN CT 06511

COPY MAILED
JUL 1 8 2005
OFFICE OF PETITIONS

In re Application of
Patturajan, et al. :
Application No. 11/005,836 : ON PETITION
Filed: 6 December, 2004 :
Attorney Docket No. Cura 51 CIP2 :

This is a decision on the papers submitted and considered as a petition filed on 24 March, 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 6 December, 2004, without, *inter alia*, a fully

executed oath/declaration;

- on 12 January, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 24 March, 2005, a statement by Petitioner Mei L. Benni (Reg. No. 45,470) filed, *inter alia*, the instant petition, along with an oath/declaration containing the signatures of named co-inventors Patturajan, Millet, Kumar, Miller, Mezes, Burgess and Shimkets (for themselves and on behalf of) but without the signature of named non-signing co-inventor Denise Lepley (Ms. Lepley), a narration regarding events (from Ms. Nicole Carlucci, US Legal Specialist, CuraGen Corporation), and an averment that the oath or declaration was presented to Ms. Lepley–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. Lepley along with the oath or declaration.

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 appears to be in conflict as to whether the entire application was presented to Ms.Lepley. A copy of the transmittal letter evidencing that the entire application (description, claims, abstract and drawings) 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]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

---

[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 .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

By FAX: IFW Formal Filings
(571) 273-8300
ATTN.: Office of Petitions

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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: __

GEORGE YAHWAK, ESQ.
555 LONG WHARF DRIVE, 9TH FLOOR
NEW HAVEN CT 06511

COPY MAILED

NOV 1 8 2005

OFFICE OF PETITIONS

In re Application of
Patturajan, et al. :
Application No. 11/005,836 : ON PETITION
Filed: 6 December, 2004 :
Attorney Docket No. Cura 51 CIP2 :

This is a decision on the papers submitted and considered as a petition filed on 6 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 **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 6 December, 2004, without, *inter alia*, a fully

executed oath/declaration;

- on 12 January, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 24 March, 2005, a statement by Petitioner Mei L. Benni (Reg. No. 45,470) filed, *inter alia*, the original petition, along with an oath/declaration containing the signatures of named co-inventors Patturajan, Millet, Kumar, Miller, Mezes, Burgess and Shimkets (for themselves and on behalf of) but without the signature of named non-signing co-inventor Denise Lepley (Ms. Lepley), a narration regarding events (from Ms. Nicole Carlucci, US Legal Specialist, CuraGen Corporation), and an averment that the oath or declaration was presented to Ms. Lepley–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. Lepley along with the oath or declaration–and for that reason the petition was dismissed on 18 July, 2005;

- the instant petition was filed on 6 September, 2005, but clearly states that the given address for Ms. Lepley–and the one to which the application was sent–is not a current and valid address, and further <u>there is no showing by Petitioner as to a diligent effort to ascertain a current address for Ms. Lepley</u> (although a brief search by the Office revealed an apparently current Connecticut address for a "D. Lepley").

The 18 July, 2005, Decision expressly stated:

> Thus, not only must a copy of the entire application 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 <u>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</u>. (Emphasis supplied.)

<u>ANALYSIS</u>

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 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])

---

[1] See: MPEP 409.03(b).

CONCLUSION

The record as it stands appears to be in conflict as to whether the entire application was presented to Ms.Lepley. A copy of the transmittal letter evidencing that the entire application (description, claims, abstract and drawings) 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]

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

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[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 .)

[3] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

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.: 02-06

Paper No: __

GEORGE YAHWAK, ESQ.
555 LONG WHARF DRIVE, 9TH FLOOR
NEW HAVEN CT 06511

COPY MAILED

FEB 27 2006

OFFICE OF PETITIONS

In re Application of
Patturajan, et al. :
Application No. 11/005,836 :
Filed: 6 December, 2004 :
Attorney Docket No. Cura 51 CIP2 :

ON PETITION

This is a decision on the papers submitted and considered as a petition filed on8 February, 2006, 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**.

BACKGROUND

The record indicates:

- the instant application was filed on 6 December, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 12 January, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 24 March, 2005, a statement by Petitioner Mei L. Benni (Reg. No. 45,470) filed, *inter alia*, the original petition, along with an oath/declaration containing the signatures of named co-inventors Patturajan, Millet, Kumar, Miller, Mezes, Burgess and Shimkets (for themselves and on behalf of) but without the signature of named non-signing co-inventor Denise Lepley (Ms. Lepley), a narration regarding events (from Ms. Nicole Carlucci, US Legal Specialist, CuraGen Corporation), and an averment that the oath or declaration was

presented to Ms. Lepley–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. Lepley along with the oath or declaration–and for that reason the petition was dismissed on 18 July, 2005;

- the petition, filed on 6 September, 2005, was dismissed on 18 November, 2005, because the paper clearly stated that the given address for Ms. Lepley–and the one to which the application was sent–was not a current and valid address, and further there was no showing by Petitioner as to a diligent effort to ascertain a current address for Ms. Lepley (although a brief search by the Office revealed an apparently current Connecticut address for a "D. Lepley");

- the instant petition not only seeks to cure these defects but also submits what Petitioner avers to be the oath/declaration executed by Ms. Lepley.

Thus, it now appears that the oath/declaration has been signed by all inventors.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 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 Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

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

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

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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE #1600
PORTLAND, OR 97204-2988

Mail Date: 04/20/2010

Applicant	: Rachel Schneerson	: DECISION ON REQUEST FOR
Patent Number	: 7625736	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,851	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **395** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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FOLEY HOAG, LLP
PATENT GROUP, WORLD TRADE CENTER WEST
155 SEAPORT BLVD
BOSTON, MA 02110

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AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
Eugene E. Pettinelli, et. al.	:	
Application No. 11/005,872	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW FROM
Attorney Docket No. QUD-001.01	:	RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 9, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that the power of attorney to Customer Number 25181 has been revoked by the assignee of the above application on July 1, 2009. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

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

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

This application file is being referred to Technology Center Art Unit 2626 for review of the amendment filed on July 1, 2009.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Qualia, Inc.
955 Massachusetts Avenue, Suite 304
Cambridge, MA 02139

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

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OFFICE OF PETITIONS

In re Application of :
Chong, et al. :
Application No. 11/005,890 :
Submitted: December 6, 2004 :
Attorney Docket No. 060889-0105-01US :

ON PETITION

This is a decision on the papers styled, "Response to Notice of Incomplete Nonprovisional Application," filed April 1, 2005, which has been treated as a petition under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of December 6, 2004, including four (4) sheets of drawings.

The application was submitted on December 6, 2004. However, on February 1, 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 April 1, 2005, the instant petition and four (4) sheets of drawings were filed.

Petitioner states:

> "In the Notice of Incomplete Nonprovisional Application mailed February 1, 2005, applicants were advised that the present continuation application was deposited on December 6, 2004 without drawings and without payment of the statutory basic filing fee.
>
> In response, a copy of the drawings is submitted herewith along with authorization to charge the basic filing fee to the deposit account of Morgan, Lewis & Bockius LLP.
>
> Also enclosed is a Petition to Accord applicants the filing date of December 6, 2004 because the applicants' papers filed on that date incorporated by the reference both the parent and grandparent applications of the present continuation application and these applications included the drawings in question."

It is noted that a paper styled, "Petition to Accord ...," has not been found in the application file.

Petitioner requests the use of the incorporation by reference statement in Box 18 of the Utility Patent Application Transmittal to incorporate-by-reference the drawings of the parent application, application no. 10/678,498, filed October 3, 2003, in order to accord the above-identified application a filing date of December 6, 2004. However, MPEP 201.06(c) states:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

It is noted that the required amendment has not been submitted with the instant petition. At the present time, the petition must be dismissed. However, this decision is made without prejudice to reconsideration.

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

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

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

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WASHINGTON, DC 20004

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OFFICE OF PETITIONS

In re Application of :
Chong, et al. :
Application No. 11/005,890 :
Submitted: December 6, 2004 :
Attorney Docket No. 060889-0105-01US :

ON PETITION

This is a decision on the papers styled, "Request For Reconsideration of Denial of Petition to Accord a Filing Date of December 6, 2004," filed July 13, 2005, which has been treated as a petition under 37 CFR 1.182, requesting that the above-identified application be accorded a filing date of December 6, 2004, including four (4) sheets of drawings.

The application was submitted on December 6, 2004. However, on February 1, 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 April 1, 2005, the original petition and four (4) sheets of drawings were filed.

Petitioner has stated:

> "Applicants submit that their application is entitled to the filing date of December 6, 2004 because their application papers incorporated by reference both the parent and grandparent applications of the present application and these applications included the drawings not deposited with the present application. Specifically, the Utility Patent Application Transmittal form submitted on December 6, 2004, identifies the present application as a continuation application of application no. 10/678,498 and incorporates by reference the entire disclosure of that prior application in the present application. A copy of the Utility Patent Application Transmittal form is enclosed for the Office's convenience and the incorporation by reference is highlighted in yellow. A copy of the drawings of U.S. Patent 6,870,400 which issued from application no. 10/678,498 is also enclosed."

Petitioner requests the use of the incorporation by reference statement to incorporate-by-reference the drawings of the parent application, application no. 10/678,498, filed October 3, 2003, in order to accord the above-identified application a filing date of December 6, 2004.

MPEP 201.06(c) states:

> "A. Application NOT Entitled to a Filing Date
>
> Material needed to accord an application a filing date may not be incorporated by reference. Therefore, if a continuation or divisional application as originally filed incorporates by reference material omitted from the application papers, which is needed to accord the application a filing date, the application will **not** be entitled to a filing date. A petition under 37 CFR 1.182 and the required petition fee, including an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement, is required in order to accord the application a filing date as of the date of deposit of the continuation or divisional application. An amendment submitting the omitted material and relying upon the incorporation by reference will not be entered in the continuation or divisional application unless a decision granting the petition states that the application is accorded a filing date and that the amendment will be entered."

Petitioner has submitted the required petition, petition fee, and an amendment submitting the necessary omitted material, requesting that the necessary omitted material contained in the prior application and submitted in the amendment, be included in the continuation or divisional application based upon the incorporation by reference statement.

The petition is granted.

Based on petitioners' representation that the drawings supplied with the petition are a part of the disclosure of prior application no. 10/678,498 and that the entire disclosure of prior application no. 10/678,498 was specifically incorporated by reference in the present application on December 6, 2004, it appears that the drawings were present in the Office on December 6, 2004, albeit in the file of another application, i.e., application no. 10/678,498. Therefore, on petition, the application may be granted the requested filing date of December 6, 2004 and the amendment will be entered.

Of course, the primary examiner is expected to compare the drawings supplied on April 1, 2005, to the disclosure of prior application no. 10/678,498 in order to verify that the drawings are, in fact, part of the disclosure of the prior application.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 6, 2004, using the drawings supplied on April 1, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3228.

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

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DANIEL R. GROPPER, P.C.
9908 DALE RIDGE CT.
VIENNA VA 22181

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AUG 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Sandland et al.	:	
Application No. 11/005895	:	ON PETITION
Filing or 371(c) Date: 12/07/2004	:	
Title of Invention: SYSTEM AND	:	
METHOD FOR DELIVERING	:	
EXTERNAL DATA TO A PROCESS	:	
RUNNING ON A VIRTUAL MACHINE	:	:

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed May 12, 2008.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 17, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that Applicant has filed (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

The Power of Attorney filed with the petition has NOT been entered because there is no evidence that the person signing the Power of Attorney is authorized to act on behalf of all of the applicants.

The Power of Attorney has been executed by inventor Sandland only. The MPEP 402.10, Appointment/Revocation by Less Than All Applicants or Owners, states:

> Papers giving or revoking a power of attorney in an application generally require

signature by all the applicants or owners of the application. Papers revoking a power of attorney in an application (or giving a power of attorney) will not be accepted by the Office when signed by less than all of the applicants or owners of the application unless they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(*>f<) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. The petition should be directed to the Office of Petitions. The acceptance of such papers by petition under 37 CFR 1.36(a) or 1.183 will result in more than one attorney, agent, applicant, or owner prosecuting the application at the same time. Therefore, each of these parties must sign all subsequent replies submitted to the Office. See In re Goldstein, 16 USPQ2d 1963 (Dep. Assist. Comm'r Pat. 1988). In an application filed under 37 CFR 1.47(a), an assignee of the entire interest of the available inventors (i.e., the applicant) who have signed the declaration may appoint or revoke a power of attorney without a petition under 37 CFR 1.36(a) or 1.183. See MPEP § 402.07. However, in applications accepted under 37 CFR 1.47, such a petition under 37 CFR 1.36(a) or 1.183 submitted by a previously nonsigning inventor who has now joined in the application will not be granted. See MPEP § 409.03(i). Upon accepting papers appointing and/or revoking a power of attorney that are signed by less than all of the applicants or owners, the Office will indicate to applicants who must sign subsequent replies. Dual correspondence will still not be permitted. Accordingly, when the acceptance of such papers results in an attorney or agent and at least one applicant or owner prosecuting the application, correspondence will be mailed to the attorney or agent. When the acceptance of such papers results in more than one attorney or agent prosecuting the application, the correspondence address will continue to be that of the attorney or agent first named in the application, unless all parties agree >to a different correspondence address<. Each attorney or agent signing subsequent papers must indicate whom he or she represents. The following are examples of who must sign replies when there is more than one person responsible for prosecuting the application:

(A) If coinventor A has given a power of attorney >to a patent practitioner< and coinventor B has not, replies must be signed by the *>patent practitioner< of A and by coinventor B.

(B) If coinventors A and B have each appointed their own *>patent practitioner<, replies must be signed by both *>patent practitioners<.

Before the POA may be entered, either a petition under 37 CFR 1.183 complying with the above requirements, or the signature of all of the inventors, is required. 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 Art Unit 2194 to await the brief in support of appeal.

Applicant has two (2) months from the mailing date of this Decision to file an appeal brief. Extensions of time are available under 37 CFR 1.136(a). Accord, MPEP 1215.01

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

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

CC: JAMES E. LEDBETTER, ESQ.
STEVENS, DAVIS, MILLER & MOSHER, LLP
1615 L. STREET NW, STE. 850
WASHINGTON, DC 20036

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MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
SKAKOON, James G. et al.	:	
Application No. 11/005,907	:	DECISION ON PETITION
Filed: December 06, 2004	:	TO WITHDRAW
Attorney Docket No. **723.080US1**	:	FROM RECORD

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 27, 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 Suneel Arora on behalf of all attorneys of record who are associated with customer No. 21186. 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: **JAMES G. SKAKOON**
334 MACALESTER ST.
ST. PAUL, MN 55105

cc: **RICHARD W. WARNER**
HARNESS, DICKEY & PIERCE, P.L.C.
5445 CORPORATE DRIVE
TROY, MI 48098

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/005,907	12/06/2004	James G. Skakoon	

CONFIRMATION NO. 5173

OC000000025447133

21186
SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 08/17/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/27/2007.

- 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. Edson

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

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

In re Application of Leonard Forbes Application No. 11/005,909 Filed: December 6, 2004 Attorney Docket No. 1303.064US3	DECISION GRANTING PETITION UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition, filed August 14, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 23, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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STOEL RIVES LLP - SLC
201 SOUTH MAIN STREET, SUITE 1100
ONE UTAH CENTER
SALT LAKE CITY, UT 84111

Mail Date: 04/21/2010

Applicant	: Christopher D. Lucero	: DECISION ON REQUEST FOR
Patent Number	: 7652891	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,910	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **250** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 04/20/2010

Applicant	: Varghese George	: DECISION ON REQUEST FOR
Patent Number	: 7664891	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,926	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **831** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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STMICROELECTRONICS, INC.
MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON, TX 75006

Mail Date: 05/17/2010

Applicant : Varghese George
Patent Number : 7664891
Issue Date : 02/16/2010
Application No : 11/005,926
Filed : 12/06/2004

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081105

DATE : November 05, 2008

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7180791

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:

Approved for entry.
Initial: PL
Date: 11/5/08

/RICHARD ELMS/
Supervisory Patent Examiner.Art Unit 2824 11/5/08

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20081104

DATE : 11/19/08

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,180,791

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:

Approved for entry. PWL, RTE 11/5/08

US serial number 11/005939

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

/RICHARD ELMS/
Supervisory Patent Examiner.Art Unit 2824 11/5/08

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OFFICE OF PETITIONS

In re Application of

Shubhendu S. Mukherjee :

Application No. 11/005,970

: DECISION ON PETITION

Filed: December 6, 2004

:

Attorney Docket No. 42P18234

This is a decision on the petition under 37 CFR 1.137(b), filed June 7, 2007, and in duplicate on June 26, 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 October 10, 2006, which set a period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 7, 2007. A Notice of Abandonment was mailed on May 11, 2007.

The amendment filed June 7, 2007, is noted.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application,

the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address of currently of record until such time as appropriate instructions are received to the contrary.

The application is being forwarded to Technology Center 2100, GAU 2189 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:
Kenneth J. Cool
c/o Intellevate, LLC
900 Second Avenue South
Suite 1700
Minneapolis, MN 55402

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COOL PATENT, P.C.
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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FEB 11 2009

OFFICE OF PETITIONS

In re Application of Shubhendu S. Mukherjee Application No. 11/005,970 Filed: December 6, 2004 Attorney Docket No. P18234	: : : : :	ON PETITION

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

The application became abandoned for failure to file a reply to the non-final Office action mailed on March 31, 2008. A Notice of Abandonment was mailed on December 23, 2008.

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

This application file is being referred to Technology Center Art Unit 2187 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Shubhendu S. Mukherjee	: DECISION ON REQUEST FOR
Patent Number	: 7574568	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/005,970	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **772** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK IL 60477

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OFFICE OF PETITIONS

In re Application of
Sokol, Kossak & Keller
Application No. 10/669,391
Filed: September 24, 2003
Attorney Docket No.LCB417
For: MULTI-TAP COMPRESSION CONNECTOR

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

This is in response to the petition under 37 CFR 1.47(a), filed January 2, 2004 (certificate of mailing date December 29, 2003).

The petition is granted.

Petitioners have shown that the non-signing inventor, Brian Keller, has constructively refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the statement of facts of Robert A. McCann, Assistant Secretary of Panduit Corp. and attorney for the other two joint inventors, establishes that the inventor was successfully mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64.

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

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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BRIAN KELLER
2904 LEVAN AVENUE
NEW LENOX, IL 60451

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OFFICE OF PETITIONS

In re Application of
Sokol, Kossak & Keller
Application No. 10/669,391
Filed: September 24, 2003
Attorney Docket No. LCB417
For: MULTI-TAP COMPRESSION CONNECTOR

LETTER

Dear Mr. Keller:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (703) 308-6712.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: PANDUIT CORP.
LEGAL DEPARTMENT - TP12
17301 SOUTH RIDGELAND AVENUE
TINLEY PARK IL 60477

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OFFICE OF PETITIONS

In re Application of	:	
Cao et al.	:	DECISION ON PETITION TO
Application Number: 11/005997	:	WITHDRAW HOLDING OF
Filing Date: 12/06/2004	:	ABANDONMENT
Attorney Docket Number:	:	
42P9473D2	:	

This is a decision on the "PETITION TO REQUEST WITHDRAWAL OF HOLDING OF ABANDONMENT" filed on 11 September, 2007.

The petition is **GRANTED** to the extent indicated.

A Notice of Abandonment was mailed on 11 June, 2007, stating that the attorney's office had confirmed on 5 June, 2007, that applicants had abandoned the application as of 6 June, 2007.

Petitioners' counsel states that petitioners are not aware of any phone call requesting that the application be abandoned. Petitioners assert that they have continued prosecution of the application.

A review of the record reveals that:

1. On 6 December, 2006, a final Office action was mailed, setting a three (3) month period for reply.

2. On 6 June, 2007, a Request for Continued Examination (RCE) Transmittal sheet was filed, along with an amendment as the submission under 37 CFR 1.114, and a three month extension of time request.

3. On 11 June, 2007, the aforementioned Notice of Abandonment was mailed.

4. On 8 August, 2007, a non-final Office action was mailed.

In view of the record, it is clear that petitioners acted to continue prosecution of the application, and the application is

not indicated as abandoned in Office records. Rather, it appears that the Notice of Abandonment was mailed in error.

The petition is therefore granted to the extent that any holding of abandonment is withdrawn, and the notice of abandonment is vacated.

The application is referred to Technology Center Art Unit 2814 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DOW GLOBAL TECHNOLOGIES INC.
2040 DOW CENTER
MIDLAND, MI 48674

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OFFICE OF PETITIONS

In re Application of Weaver et al. :
Application No. 11/006,003 :
Filing Date: December 7, 2004 :
Attorney Docket No. DW0091 USNA :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed February 26, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within *TWO (2) MONTHS* from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

Facts

The application was filed December 7, 2004. The Application Data Sheet filed with the application indicated all correspondence should be sent to the correspondence address associated with Customer No. 24199, which was, and continues to be,

Dupont Performance Elastomers, L.L.C.
Patent Records Center
4417 Lancaster Pike, Barley Mill Plaza P25
Wilmington, DE 19805

A Power of Attorney filed April 18, 2005, gave power of attorney to representatives associated with Customer No. 24199.

On February 21, 2007, petitioner filed a request to change the address of record to:

The Dow Chemical Company
Intellectual Property Section
PO Box 1967
Midland, MI 48641-1967

The change of address was signed by Attorney Jane M. Terry. Attorney Terry was not an attorney of record. Therefore, the Office did not enter the change of address.

The Office mailed a non-final Office action to the Delaware address on June 28, 2007.

Petitioner filed a reply to the June 28, 2007 Office action on December 27, 2007. The reply included a terminal disclaimer signed by Attorney Terry. Since Attorney Terry was not an attorney of record, the terminal disclaimer was *not* entered.

A final Office action was mailed to the Delaware address on January 11, 2008.

A reply signed by Attorney Terry was filed June 11, 2008.

The Office "issued" a non-final Office action on June 25, 2008. Specifically, the Office notified petitioner by email at PTO-Legal.PRC@USA.DUPONT.COM that correspondence related to the application was available for viewing.

A "Courtesy Reminder" postcard was mailed to petitioner on July 3, 2008. The postcard reminded petitioner an email notification regarding the application was sent to petitioner on June 25, 2008.

The Office did not receive a reply to the June 25, 2008 Office action. As a result, the application became abandoned on September 26, 2008.

On January 9, 2009, petitioner filed:

(1) A copy of the February 21, 2007 change of address form signed by Attorney Terry requesting the address be changed to: The Dow Chemical Company, Intellectual Property Section, PO Box 1967, Midland, MI 48641-1967;
(2) A copy of an assignment from the inventors to "Dupont Dow Elastomers L.L.C.";
(3) A document by the Secretary of State of the Sate of Delaware indicating "Dupont Dow Elastomers L.L.C." changed its name to "Dupont Performance Elastomers L.L.C." on June 29, 2005;
(4) A copy of a November 22, 2005 assignment from Dupont Performance Elastomers L.L.C. to Wenben Inc.;
(5) A copy of a November 28, 2005 assignment from Wenben Inc. to Dow Global Technologies Inc.;
(6) A copy of the cover sheet recorded with the assignment from Dupont Performance Elastomers L.L.C. to Wenben, Inc. which lists the following address for the assignee: Wenben Inc., 2030 Dow Center, Midland, MI 48674;
(7) A copy of the cover sheet recorded with the assignment from Wenben Inc. to Dow Global Technologies Inc. which lists the following address for the assignee: Dow Global Technologies Inc., Washington Street, 1790 Building, Midland, Michigan, 48674;
(8) A statement by the Assistant Secretary of Dow Global Technologies Inc. stating the company has changed its address from Washington Street, 1790 Building, Midland, Michigan, 48674 to 2040 Dow Center, Midland, Michigan, 48674 effective May 2, 2007; and

(9) A copy of the previously filed power of attorney and correspondence address form filed April 18, 2005, stating all correspondence should be sent to the address associated with Customer No. 24199;

(10) A new change of address form signed by Attorney Terry requesting future correspondence be addressed to Dow Global Technologies, Inc., 2040 Dow Center, Midland, MI, 48674.

The Office issued a Notice of Abandonment on January 22, 2009, in the form of an email notification sent to PTO-Legal.PRC@USA.DUPONT.COM.

The instant petition was filed February 26, 2009.

Discussion

The Petition Under 37 CFR 1.137(a)

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

(1) The reply required to the outstanding Office action or notice, unless previously filed,

(2) The petition fee,

(3) A showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable, and

(4) A terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3) above.

The petition alleges the non-final Office action was mailed to an incorrect address. In support of the assertion, petitioner has supplied a copy of a change of correspondence address filed February 21, 2007.

A review of the February 21, 2007 change of correspondence form indicates the form was signed by Attorney Jane Terry. Attorney Terry was not an attorney of record. 37 CFR 1.34 allows registered practitioners to sign some papers filed in an application or patent even when the practitioner is not an attorney or agent of record. However, a practitioner acting in a representative capacity may not change the address of record unless an executed oath or declaration has not been filed and the practitioner filed the application. See MPEP 402. Therefore, the Office acted correctly when it did not change the address of record.

Even if the Office had acted incorrectly when it failed to change the address of record, petitioner's delay in taking steps to correct the Office's failure to change the address might preclude a finding of unavoidable delay. The Office mailed a non-final Office action to the Delaware address on June 28, 2007. The Office mailed a final Office action to the Delaware address on January 11, 2008. The address used for the two Office actions should have alerted petitioner that the Office would continue to send papers to the address associated with Customer

No. 24199 absent petitioner taking further steps to have the address changed. However, petitioner did not send any additional documents involving the address of record to the Office until almost a year after the Office mailed the final Office action.

The Office notes the record is unclear as to whether or not petitioner would have received the June 25, 2008 Office action even if the address of record had been changed in response to the February 21, 2007 request. Specifically, the statement by the Assistant Secretary of Dow Global Technologies Inc. states the company has changed its address from Washington Street, 1790 Building, Midland, Michigan, 48674 to 2040 Dow Center, Midland, Michigan, 48674 *effective May 2, 2007.*

Petitioner has not proven the entire delay in the submission of a reply to the June 25, 2009 Office action was unavoidable. Therefore, the petition will not be granted.

The Current Address of Record

The January 9, 2009 papers do not include any paper signed by a proper party clearly requesting the Office send correspondence related to the application to a new address.

The request to change the address of record signed by Jane Terry is not properly signed.

The copy of the April 18, 2005 power of attorney and correspondence address form is signed by all three inventors. However, the address on the form is already the address of record.

The statement by the Assistant Secretary of Dow Global Technologies Inc. states the company has changed its address. However, the statement does not make any reference to the instant application or explicitly request the Office change the address for the application. A change in an assignee's request is not always an indication the mailing address for an application should be changed.

Based on the facts of record, the Office would definitely not be acting improperly if the Office did not change the address of record. However, the Office has broad discretion when determining if an address should be changed, and based on all the facts in this specific case, has chosen to change the address of record to Dow Global Technologies Inc., 2040 Dow Center, Midland, MI, 48674.

Petitioner should note the Office has not made any changes to the practitioners of record. The practitioners of record continued to consist of practitioners associated with Customer No. 24199.

Petitioner's Current Options

Option 1

Petitioner may request reconsideration under 37 CFR 1.137(a). Such a request must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. Any

reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

Option 2

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 to revive 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 (already submitted), the required petition fee ($1,620 for a 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.

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

Option 3

Petitioner can file a document requesting reconsideration under 37 CFR 1.137(a) and stating, if the request for reconsideration under 37 CFR 1.137(a) is dismissed, the Office consider the petition in the alternative under 37 CFR 1.137(b).

If petitioner submits the fee for the 37 CFR 1.137(b), the fee will be refunded if the request for reconsideration is granted.

Future correspondence

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

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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2040 Dow Center
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OFFICE OF PETITIONS

In re Application of	:	
Laura Bauerle Weaver et al.	:	
Application No. 11/006,003	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. DW0091USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 13, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 25, 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 September 26, 2008. A Notice of Abandonment was mailed on January 22, 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 (1).

As to item (1) petition filed July 13, 2009 mentions that the reply to the Office action mailed June 25, 2008 is "enclosed". In view of the file record no reply was received with the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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 Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Dow Global Technologies, Inc.
2040 Dow Center
Midland, MI 48674

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MAR 15 2010

In re Application of	:	
Laura Bauerle Weaver et al.	:	
Application No. 11/006,003	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. DW0091USNA	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 25, 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 September 26, 2008. A Notice of Abandonment was mailed on January 22, 2009.

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

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

This application is being referred to Technology Center AU 1796 for appropriate action by the Examiner in the normal course of business on the reply received December 17, 2009.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA, OK 74119

Mail Date: 04/21/2010

Applicant	: R. Brent Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7631213	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **804** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

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AUG 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Smits et al.	:	
Application No. 11/006,022	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. A147 CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 11, 2009, to revive the above-identified application.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Catherine M. McCarty appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Ms. McCarty desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Ms. McCarty, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of March 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. In view of the 3-month extension of time filed, September 17, 2008 the date of abandonment of this application is September 18, 2008. A Notice of Abandonment was mailed July 8, 2009.

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

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

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

This application is being referred to Technology Center AU 1618 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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CATHERINE MCCARTY
LANDO AND ANASTASI LLP
1 MAIN STREET
SUITE 1100
CAMBRIDGE, MA 02142

UNITED STATES PATENT AND TRADEMARK OFFICE

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CYNTHIA H. O'DONOHURE
APPLIED POWER CONCEPTS INC.
411 EAST JULIANNA STREET
ANAHEIM CA 92801

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OFFICE OF PETITIONS

In re Application of	:	
William A. Farone et al	:	
Application No. 11/006,046	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 20011.UTL	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 8, 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 an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed August 1, 2007, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received September 8, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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CYNTHIA H. O'DONOHURE
APPLIED POWER CONCEPTS INC
411 EAST JULIANNA STREET
ANAHEIM CA 92801

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of
William A. Farone et al.
Application No. 11/006,046
Filed: December 7, 2004
Attorney Docket No. 20011.UTL

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed May 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply to the Final Office action mailed October 13, 2009, which set a three (3) month shortened statutory period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. The instant petition and this decision precede the mailing of the Notice of Abandonment.

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) an adequate statement of unintentional delay.

The Examiner has determined that the amendment filed May 16, 2010 is acceptable. The matter therefore is being referred to Technology Center 1797.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In 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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1621 EUCLID AVE
19TH FLOOR
CLEVELAND OH 44115

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OFFICE OF PETITIONS

In re Application of	:	
Mehta, et al.	:	
Application No. 11/006,085	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. NEWTP0118US	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), pursuant to 37 CFR 1.137(f), filed April 20, 2006.

The petition is **GRANTED**.

Petitioner states that the instant application is the subject of an international application filed on December 6, 2005. However, the US Patent and Trademark Office was unintentionally not notified of this filings within 45 days subsequent to the filing of the PCT application.

In view of the above, this application became abandoned pursuant to 35 USC 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 instant 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 USC 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

Receipt of the $750 petition fee is acknowledged.

The application is being forwarded to Group Art Unit 2137 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DILLON & YUDELL LLP
8911 N. CAPITAL OF TEXAS HWY.,
SUITE 2110
AUSTIN, TX 78759

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of Dunshea et al. :
Application No. 11/006,112 :
Filing Date: December 7, 2004 :
Attorney Docket No. AUS920040938US1 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(a), filed December 12, 2008, to revive the above-identified application.

The petition is **dismissed**.

The Office mailed a non-final Office action on April 17, 2008. The Office action set a shortened statutory period for reply of three (3) months. The Office did not receive a reply to the non-final Office action and the application became abandoned on July 18, 2008. A Notice of Abandonment was mailed November 18, 2008.

Petitioner requests the application be revived pursuant to 37 CFR 1.137(a). A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the reply required to the outstanding Office action or notice, unless previously filed,
(2) the petition fee,
(3) a showing <u>to the satisfaction of the Director</u> that the <u>entire</u> 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 <u>unavoidable</u>, and
(4) a terminal disclaimer and fee *if* the application was filed on or before June 8, 1995 or *if* the application is a design application.

The instant petition lacks item (3) above.

Petitioner states the delay in responding to the Office action was unavoidable because the law firm did not receive the Office action. However, petitioner has failed to prove non-receipt of the Office action.

Although petitioner has submitted a copy of a docket record for the instant application, the docket record, as submitted, is ambiguous.

Papers mailed by the Office since the application was filed December 7, 2004, include:

(A) A non-final Office action on November 3, 2006,
(B) An Interview Summary on March 6, 2007,
(C) A final Office action on May 4, 2007,
(D) An Advisory Action on October 30, 2007,
(E) Notification of Non-Compliant Appeal Brief on November 6, 2007,
(F) An Interview Summary on November 21, 2007,
(G) A non-final Office action on April 17, 2008, and
(H) A Notice of Abandonment on November 18, 2008.

The docket record submitted with the petition does not make any reference to the non-final Office action mailed April 17, 2008. However, the docket record also does not appear to include any reference to the receipt of items (A), (B), (C), (F), and (H) above. Therefore, the lack of any reference to the non-final Office action does not appear to prove the non-final Office action was not received.

A date at the bottom of the copy of the docket record provided with the petition appears to indicate the copy of the docket report was printed on January 30, 2008. If the docket record was printed on January 30, 2008, then the fact the printed docket record does not include the non-final Office action mailed more than two months later on April 17, 2008, is not proof the law firm never received the April 17, 2008 Office action.

The showing necessary to prove non-receipt of a Notice or Office action is discussed in MPEP 711.03(c)(I)(A) which states, with emphasis added,

> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. *If no such master docket exists, the practitioner should so state* and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The instant petition does not include a copy of a master docket or an assertion a master docket does not exist.

For the preceding reasons, the petition cannot be granted.

Any request for reconsideration must be submitted within **TWO (2) MONTHS** from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)."

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 to revive 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 (already submitted), the required petition fee ($1,620 for a large 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.

A copy of a PDF "fillable" form that may be used when filing a petition under 37 CFR 1.137(b) can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

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

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SUITE 2110
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JUN 15 2009

OFFICE OF PETITIONS

In re Application of Dunshea et al. :
Application No. 11/006,112 :
Filing Date: December 7, 2004 :
Attorney Docket No. AUS920040938US1 :

Decision on Petition

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

The petition is **granted**.

The Office mailed a non-final Office action on April 17, 2008. The Office action set a shortened statutory period for reply of three (3) months. The Office did not receive a reply to the non-final Office action and the application became abandoned on July 18, 2008. A Notice of Abandonment was mailed November 18, 2008.

Petitioner requests the application be revived pursuant to 37 CFR 1.137(a). Petitioner has met the requirements set forth in 37 CFR 1.137(a). Therefore, the petition is granted.

Technology Center Art Unit 2186 will be informed of the instant decision and the application, including the amendment filed December 12, 2008, 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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ONE MICROSOFT WAY
REDMOND WA 98052

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of
Micahl Bortnik et al.
Application No. 11/006,118
Filed: December 7, 2004
Attorney Docket No. **MSFT-4529/310737.02**

DECISION ON PETITION
UNDER § 1.183

This is a decision in response to the petition filed May 24, 2010, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

The petition under 37 CFR 1.183 is **DISMISSED**.

The above-identified application was filed on December 7, 2004, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration was executed by all the joint inventors except James David Macauley and Patrick W. O'Kelley II. Applicants have filed the instant petition to have the 37 CFR § 1.131 declaration accepted as signed by all inventors on their own behalf and on behalf of non-signing inventors James David Macauley and Patrick W. O'Kelley II.

37 CFR 1.131 states, in pertinent part:

> When any claim of an application or a patent under reexamination is rejected, the inventor of the subject matter of the rejected claim, the owner of the patent under reexamination, or the party qualified under §§ 1.42, 1.43, or 1.47, may submit an appropriate oath or declaration to establish invention of the subject matter of the rejected claim prior to the effective date of the reference or activity on which the rejection is based.

In addition, the Manual of Patent Examining Procedure states that "an application or declaration by less than all named inventors of an application is accepted where it is shown that less than all named inventors of an application invented the subject matter of the claim or claims under rejection."

Here, there has not been a party qualified under 37 CFR 1.42, 1.43, or 1.47. In addition, applicants do not contend that less than all of the named inventors of the application invented the subject matter of the claims under rejection. Accordingly, the proper parties to sign the 37 CFR § 1.131 declaration include all of the joint inventors.

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that

joint inventors James David Macauley and Patrick W. O'Kelley II sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Macauley and O'Kelley's signatures on the 37 CFR § 1.131 declaration. The declaration presented is signed by the remaining joint inventors however, applicants have not shown that a bona fide effort was made to reach or locate inventor O'Kelley to present the 37 CFR § 1.131 declaration and supporting documentation.

Petitioners have argued that telephone calls and emails have been sent regarding the Declaration under 37 CFR 1.131 however, petitioners have not shown that the declaration has been sent to the last known address of Patrick W. O'Kelley II.

Further, the petition does not include any evidence of additional efforts employed to send the declaration to or to locate Mr. O'Kelley. In view of the evidence presented, petitioners have not provided evidence that diligent efforts have been made to locate non-signing inventor O'Kelley and thus, under the circumstances, it is concluded that petitioner has not demonstrated that this is an extraordinary situation, warranting waiver of the rules.[1]

Before the Declaration under 37 CFR 1.131 can be entered, petitioner must provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, to send the declaration to the last known address of Mr. O'Kelley or of the **additional efforts**, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him or an updated address for him, send or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

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

[1] MPEP 409.03(d).

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OFFICE OF PETITIONS

In re Application of	:	
Momar NDAO, et al	:	
Application No. 11/006,119	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW
Attorney Docket No. 016866-012130US	:	FROM RECORD
	:	

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 17, 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 Chris J. Ullsperger on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. The Office will not engage in dual correspondence with petitioner and petitioner's representative. Since there are multiple intervening assignees, all future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 13, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MOMAR NDAO
420 DES TULIPES
LA PRAIRIE
PQ, CANADA J5R 2G3

cc: CIPHERGEN BIOSYSTEMS, INC.
6611 DUMBARTON CIRCLE
FREMONT, CA 94555

cc: MCGILL UNIVERSITY
845 SHERBROOKE STREET, W.
MONTREAL, QUEBEC,
CANADA H3A 2T5

cc: ANDREW SERAFINI
999 THIRD AVENUE
SEATTLE, WA 98104

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
11/006,119	12/06/2004	Momar Ndao	016866-012130US

CONFIRMATION NO. 2335

POWER OF ATTORNEY NOTICE

53671
TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

OC000000027021292

Date Mailed: 11/30/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

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

/dcgoodwyn/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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BURNS & LEVINSON, LLP
125 SUMMER STREET
BOSTON MA 02110

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MAR 2 6 2008

OFFICE OF PETITIONS

In re Application of	:	
Ganem et al.	:	
Application No. 11/006,132	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 10845-179CON	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 25, 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 and an Amendment, (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 $230.00 extension of time fee submitted with the petition on January 25, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

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

This matter is being referred to Technology Center 1612 for processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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FEB 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Michele Bovio et al	:	
Application No. 11/006,135	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 3168-6396.3US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed November 15, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and 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 2835 for action on the merits commensurate with this decision.

Irvin Dingle for

Amelia Au
Petitions Examiner
Office of Petitions

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DEC 1 6 2008

OFFICE OF PETITIONS

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

In re Application of
John Louis Culligan et al
Application No. 11/006,144
Filed: December 7, 2004
Attorney Docket No. 2003 P 18526
US01

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and Pre-Appeal Request for Review; (2) the petition fee of 1,620; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2836 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

MICHAEL HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Stephen Michael Patton
P. O. Box 381454
Germantown, TN 38183

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
KLASSEN et al.	:	
Application No. 11/006,147	:	DECISION ON PETITION
Filed: December 7, 2004	:	TO WITHDRAW
Attorney Docket No. 17604	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 17, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, no longer legally representing the assignee, do not meet any the conditions set forth in 37 CFR 10.40 as the assignee has not intervened in accordance with 37 CFR 3.71.

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 Monica A. Graves at 571-272-7253.

David Buccei
Petitions Examiner
Office of Petitions

cc: CNH AMERICA LLC
Intellectual Property Law Department
P.O. Box 1895, MS 641
New Holland, PA 17557

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BLUE LEAF I.P., INC.
P.O. BOX 1895
M.S. 641
NEW HOLLAND PA 17557

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JAN 14 2010

In re Application of	:	
Klassen et al.	:	
Application No. 11/006,147	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 17604	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 25, 2009, as required by the Notice of Allowance and Fee(s) Due mailed June 25, 2009. Accordingly, the date of abandonment of this application is September 26, 2009. A Notice of Abandonment was mailed October 16, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510.00 and publication fee of $300.00; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

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

Joan Olszewski
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DNAX RESEARCH INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of	:
Fernando J. Bazan	:
Application No. 11/006,154	: DECISION ON PETITION
Filed: December 6, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DX0758K1B1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 29, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed on May 25, 2007.

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 application 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 application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35

U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

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 Irvin Dingle at (571) 272-3210.

David Bucci
Petition 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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DNAX RESEARCH INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of	:
Fernando J. Bazan	:
Application No. 11/006,154	: DECISION ON PETITION
Filed: December 6, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DX0758K1B1	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 9, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt

accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Irvin Dingle at (571) 272-3210. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1646 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.

David Bucci
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/006,154	12/06/2004	1646	1340	DX0758K1B1	20	3

CONFIRMATION NO. 2338

CORRECTED FILING RECEIPT

28008
DNAX RESEARCH INC.
LEGAL DEPARTMENT
901 CALIFORNIA AVENUE
PALO ALTO, CA 94304

OC000000033710396

Date Mailed: 12/19/2008

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)

J. Fernando Bazan, Palo Alto, CA;

Assignment For Published Patent Application

Schering Corporation, a New Jersey corporation

Power of Attorney: The patent practitioners associated with Customer Number 028008

Domestic Priority data as claimed by applicant

This application is a DIV of 09/558,474 04/25/2000 PAT 6,835,825
which is a DIV of 09/122,443 07/24/1998 PAT 6,060,284
which claims benefit of 60/053,765 07/25/1997

Foreign Applications

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/006,154**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

IL-B30 ANTIBODIES

Preliminary Class

530

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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

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

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

43208-P001US

PATENT

OIPE IAP78
MAR 17 2006
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application:	Frank D. Mango
Serial No.:	11/006,159
Filed:	December 7, 2004
Art Unit:	1743
Confirmation No.	6717
Examiner:	Arlen Soderquist
Title:	A Rock Assay for Predicting Oil or Gas in Target Reservoirs

CERTIFICATE OF MAILING

I hereby certify that this correspondence, is being deposited with the U.S. Postal Service with sufficient postage as first class mail in an envelope addressed to Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450 on March 15, 2006.

Carol Mathis

Carol Mathis

PETITION TO MAKE SPECIAL UNDER THE ENERGY PROGRAM
(37 C.F.R. § 1.102(c)(2)(ii) and MPEP § 708.02 VI)

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

Dear Sir:

Applicant hereby petitions to make this application special as being for an invention that materially contributes to the discovery or development of energy resources. Special status for the above listed application is sought because Applicant's invention is directly related to developments in fossil fuels. As the application disclosure is clear on its face that the claimed invention materially contributes to the discovery and/or development of energy resources, a statement explaining how the materiality standard is met is not included with this petition.

In accordance with 37 C.F.R. § 1.102(c), no fee is required for this petition. Should the Special Program Examiner have any questions concerning this petition, the Examiner is invited to call the undersigned at 713.650.2751.

Respectfully submitted,
WINSTEAD SECHREST & MINICK P.C.
Attorneys for Applicant

By: Mark S. Solomon
Mark S. Solomon
Reg. No. 54,740

Date: March 15, 2006

P.O. Box 50784
Dallas, Texas 75201
Phone: 713.650.2751
Fax: 713.650.2400

PETITION GRANTED

William Krynski,
Special Program Examiner
Technology Center 1700
APR 11 2006

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43208-P001US 3/15/2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Mail Date: 04/21/2010

Applicant	: Emmanuel C. Francisco	: DECISION ON REQUEST FOR
Patent Number	: 7515174	: RECALCULATION of PATENT
Issue Date	: 04/07/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,166	: OF WYETH
Filed	: 12/06/2004	:
		:

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

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JUN 26 2008

OFFICE OF PETITIONS

In re Patent No. 7,186,655 :
Issue Date: March 6, 2007 :
Application No. 11/006,187 :
Filed: December 7, 2004 :
Attorney Docket No. 30205-40682 :

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed October 24, 2007, requesting issuance of a duplicate Letters Patent for the above-identified patent.

Petitioner asserts that the original Letters Patent was lost.

In the absence of any irregularity in the mailing of the Letters Patent, there is a strong presumption that the Letters Patent was properly mailed to the address of record at the time of issuance; Therefore, this petition is properly treated as a petition under 37 CFR 1.182 and the $400 petition fee has been assessed to petitioner's deposit account, as authorized.

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

The Office of Data Management is directed to issue duplicate Letters Patent.

A copy of this decision is being faxed to the Office of Data Management for issuance of the duplicate Letters Patent.

This patent file is being forwarded 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 129.

Andrea Smith
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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TRASK BRITT
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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FEB 0 6 2006

OFFICE OF PETITIONS

In re Application of	:	
Michele Bovio et al	:	
Application No. 11/006,194	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 3168-6396.1US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed November 15, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and 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 2835 for action on the merits commensurate with this decision.

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

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APR 0 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Justin K. Brask et al.	:	
Application No. 11/006,218	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. P20677	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 15, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 15, 2007. Accordingly, the date of abandonment of this application is August 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Rahul D. Engineer
Intel Corporation
1701 Intervail Drive
MS: AN1-PTL1
Austin, TX 78746

UNITED STATES PATENT AND TRADEMARK OFFICE

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ANTHONY LEMOINE
2302 CORNELL DRIVE
ROSWELL NM 88203

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JUN 04 2008

OFFICE OF PETITIONS

In re Application of :
Lemoine :
Application No. 11/006,220 :
Filed: March 16, 2005 :
Attorney Docket No. N/A :
For: MOTORCYCLE THROTTLE
THUMBSCREW LEVER

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 22, 2008, to withdraw the holding of abandonment.

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

This application became abandoned for failure to properly and timely reply to the final Office action, mailed June 18, 2007, which set an extendable three month period for reply. An amendment after final was filed on September 4, 2007. On September 25, 2007, the Office mailed a Notice of Non-Compliant Amendment under 37 CFR 1.121 that requested applicant submit an amendment in compliance with Rule 121 within the period set by the June 18, 2007 final Office action. Applicant filed an amendment on December 13, 2007. The application became abandoned on September 19, 2007. A Notice of Abandonment was mailed on January 23, 2008.

Applicant argues that the Office received appropriate responses within given time frames and requests that the Office withdraw the holding of abandonment.

Petitioner is informed that the December 13, 2007 amendment was not timely filed. Applicant was given a three month period to properly respond to the June 18, 2007 final Office action. The period was extendable under 37 CFR 1.136(a). However, the Office has no record of receiving a petition for a three month extension of time under 37 CFR 1.136(a). It appears that petitioner did not purchase a three month extension of time when he filed the December 13, 2007 amendment. Therefore, the application became abandoned three months after the June 18, 2007 final Office action was mailed. The December 13, 2007 amendment was filed after the application was abandoned.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is **dismissed**.

The undersigned strongly suggests 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 an issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). A blank copy of the Rule 137(b) petition form is enclosed. The current petition fee is $770.00.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay can not make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners 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
Post Office Box 1450
Alexandria, VA 22313-1450

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

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

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Blank Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

PTO/SB/64 (01-08)
Approved for use through 06/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED 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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INTERNATIONAL, INC.
101 COLUMBIA RD.
P.O. BOX 2245
MORRISTOWN NJ 07962

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OFFICE OF PETITIONS

In re Application of	:	
Killian, et al.	:	
Application No. 11/006,245	:	DECISION
Filed: 7 December, 2004	:	
Attorney Docket No. H0007427-0769	:	

This is a decision on the petition, filed on 2 June, 2008, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a).

The petition under 37 C.F.R. §1.137(a) is **GRANTED**.

As to Allegation of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable 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.)

(In light of the facts set forth in the petition, Petitioner might have filed a petition pursuant to 37 C.F.R. §1.181, but apparently chose not to do so.)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 13 August, 2007, with reply due under a non-extendable deadline on or before 13 November, 2007.

The application went abandoned after midnight 13 November, 2007.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 2 June, 2008, Applicant filed the instant petition with fee, a reply in the form of fees due, and Petitioner averred, *inter alia*, that the image file wrapper (IFW) evidences that the Notice was addressed to Petitioner's office, however, the mailing appears to have been returned to the Office as undelivered.

The Office mailed the Notice of Abandonment on 6 June, 2008.

Petitioner sought relief herein pursuant to 37 C.F.R. §1.137(a), and in doing so filed the petition, paid the petition fee, submitted the reply in the form of fees due and made—in concert with the returned mail item in the IFW—a showing of unavoidable delay.

> **NOTE:** It appears that Petitioner is not among those practitioners historically associated with the prosecution of the instant application, and might otherwise not be considered in a position to made the showing of unavoidable delay. However, Office records indicate Petitioner's historic association with another office of the Assignee. Moreover, the nature and evidence of the delay to be shown in this instance weigh more heavily than the individual presenting the showing.

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

The 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.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. 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).

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) appear to have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision—and it is noted that all inquiries with regard to that change in status should be directed to the Publications Branch where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) 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

[2] 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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PATRICK G. BURNS
GREER BURNS & CRAIN, LTD.
SUITE 2500
300 SOUTH WACKER DR.
CHICAGO, IL 60606

MAILED

FEB 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Shingo Kataoka	:	
Application No. 11/006,250	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 3408.72120	:	

This is a decision on the petition, filed April 25, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action of August 16, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on March 31, 2008.

Petitioner asserts that the Office action of August 16, 2007 was not mailed.

Office record does not show any Office Actions mailed. Since the Office Action was not mailed, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Any questions concerning this decision may be directed to Irvin Dingle at (571) 272-3210.

This application is being referred to the Technology Center technical support staff of Art Unit 1795 for re-mailing the Office action of August 16, 2007. The period for reply will run from the mailing date of the Office action.

Irvin Dingle
Petition 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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P.O. BOX 2550
SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
Michele Bovio et al	:	
Application No. 11/006,254	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 3168-6396.2US	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed November 15, 2005, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and 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 2835 for action on the merits commensurate with this decision.

Amelia Au
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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February 2006

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~~MAR~~ 2 3 2006

James R. Duzan
TRASK BRITT
P.O.Box 2550
Salt Lake City, Utah 84110-2550

In re Application of: MICHELE BOVIO, ET AL. Serial No.: 11/006,254 Filed: 06 December 2004 Docket: 3168-6396.2US Title: FLAT-PANEL DISPLAY MOUNTING SYSTEM FOR PORTABLE COMPUTER	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R § 1.102 and M.P.E.P. § 708.02 (II)

This is a decision on the petition filed on November 15, 2005 to make the above-identified application special under 37 C.F.R. § 1.102 and M.P.E.P. § 708.02 (II): Infringement.

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

For accelerated examination under MPEP § 708.02(II) in accordance with 37 C.F.R. § 1.102, a showing of the following is required: 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 petitioner's opinion, some of the claims are unquestionably infringed; and c) that petitioner 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. Further, the fee set forth in 37 CFR § 1.17(h) must be paid and copies of each of the references deemed most closely related to the subject matter encompassed by the claims must be provided if said references are not already of record.

In support of the petition, petitioner submits the required fee and provides a statement by the attorney of record that: a) the ACER TravelMate 4150 Series, ACER Aspire 1800 Series and LG FLATRON display devices are on sale in the United States; b) a rigid comparison of the alleged infringing devices with some of the claims of the application has been made and claims 4, 21 and 36 are unquestionably infringed; and c) a careful and thorough search has been made or caused to be made. As additional support for statements (a) and (c), petitioner provides sales receipts for the alleged infringing devices and an IDS list of references deemed most relevant.

The requirements of MPEP § 708.02(II)(a)-(c) are considered to have been met. Therefore, the petition is granted. The application file is being forwarded to the examiner for expedited prosecution.

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. 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.

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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JAN 07 2008

OFFICE OF PETITIONS

In re Application of :
Huang et al. : DECISION ON PETITION
Application No. 11/006,258 :
Filed: December 6, 2004 :
Atty Docket No. USP2781T/TP111:
-BIT :

This is a decision on the PETITION UNDER MPEP § 711.03(c)I.B. and 37 CFR 1.181 filed July 10, 2007.

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are not permitted. See 1.181(f).

Alternatively, applicants may seek revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

On July 21, 2006, the Office mailed a Notice of Additional Fee Due. This Notice set a ONE-MONTH PERIOD to supply the fee, with extensions of time obtainable under 37 CFR 1.136. A response, including 3 pages, was timely received on August 8, 2006. However, the response did not include payment of the fee. No further response being filed and no extension of time obtained, the application became abandoned effective August 22, 2006. A courtesy Notice of Abandonment was mailed on May 31, 2007.

In response, applicants timely filed the instant petition. Therein, applicants assert that the reply responding to the Notice was timely faxed to the Office on August 8, 2006. Applicants state that the most crucial page, the Credit Card Payment Form, was somehow lost during transmission. Petitioner states that the whole 4-page fax was faxed to USPTO's Central Fax Number on August 8, 2006; however, only the 3-page notice was received and acknowledged by USPTO's Central Fax Center. To support a conclusion that 4 pages were faxed, applicant submits a copy of the topside of the pages pointing to a "RECEIVED CENTRAL FAX CENTER' stamp with machine-generated labels of PAGE 1/3, 2/3 and 3/3" and highlights that these generated labels conflict with other smaller labels on bottom side showing p. 002/003 and 002/004.

Petitioner's evidence has been considered but not found persuasive that a complete transmission occurred. As acknowledged by applicant, the Central Fax system acknowledged receipt of 3 pages. The 3 pages did not include the Credit Card authorization form as 3 pages are of record and they do not include the Credit Card authorization form. Consistent with this conclusion, the top-sided notation on the pages acknowledges 3 pages received by the USPTO. The basis for the entry of the notations p. 002/004 etc. on the bottom-side of the papers is unclear. And certainly does not overcome the conclusion of record that the facsimile received August 8, 2006 did not include the Credit Card authorization form. Nor is the Outgoing Docket Record persuasive in light of the evidence that the Credit Card payment was not successfully transmitted. This record evidences the intention to file a complete transmission. This deficiency was not cured by the end of the period for reply.

Under the circumstances, the holding of abandonment is proper and will not be withdrawn.

No fee is required on petition under § 1.181.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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MAY 09 2008

In re Application of :
Huang et al. : DECISION ON PETITION
Application No. 11/006,258 :
Filed: December 6, 2004 :
Atty Docket No. USP2781T/TP111:
-BIT :

This is a decision on the Petition to Revive under 37 CFR 1.137(b) filed March 6, 2008 by the assignee. A 3.73(b) statement is of record as filed on July 7, 2006.

The petition is **GRANTED**.

This application became abandoned effective August 22, 2006 for failure to file a timely and proper response to the Notice of Fee Deficiency mailed July 21, 2006. A response, including 3 pages, was timely received on August 8, 2006. However, the response did not include payment of the fee. A courtesy Notice of Abandonment was mailed on May 31, 2007.

By decision mailed January 7, 2008, a prior petition to withdraw the holding of abandonment filed July 10, 2007 was dismissed. The evidence on petition was not sufficient to warrant withdrawal of the holding of abandonment.

On instant petition, applicant requests revival of the application based on unintentional delay. The prior petition filed July 10, 2007 included the required reply, payment of the fee deficiency, to the Notice. The petition includes a

statement and explanation of the circumstances of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). No terminal disclaimer is required. The language of the statement varies from the language required by 37 CFR 1.137(b)(3). The statement is being construed as the statement required by 37 CFR §1.137(b)(3). If this is not a correct reading of the statement appearing in the petition, petitioner must promptly notify the Office.

Technology Center AU 2821 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment filed July 7, 2006 in light of the submission of the fee deficiency on petition filed July 10, 2007.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Campbell et al.	:	
Application No. 11/006265	:	
Filing or 371(c) Date: 12/07/2004	:	ON PETITION
Attorney Docket Number: 126373-3	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 8, 2008, 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 non-final Office action, mailed June 5, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 6, 2007. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to Technology Center Art Unit 1796 for processing of the Amendment filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

CC: KENNETH WHEELOCK
MOMENTIVE PERFORMANCE MATERIALS, INC.
ONE PLASTICS AVENUE, BLDG. 51
PITTSFIELD, MA 01201

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MAR 05 2007

OFFICE OF PETITIONS

EDWARD P. DUTKIEWICZ, ESQ.
EDWARD P. DUTKIEWICZ, P.A.
640 DOUGLAS AVENUE
DUNEDIN FL 34698-7001

In re Application of Charles G. Astafan et al. Application No. 11/006,270 Filed: December 7, 2004 Title: TIRE SIZE REDUCTION/WIRE SEPARATION SYSTEM	DECISION ON PETITION UNDER 37 C.F.R. §1.181

This is a decision on the petition filed on December 19, 2006, 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 file corrected drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 21, 2006, which set a shortened statutory period for reply of three months (both the issue fee and the publication fee were received on May 5, 2006). No extensions of time are permitted for transmitting formal drawings[1]. Accordingly, the above-identified application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on December 1, 2006.

With the present petition, Petitioner has alleged that corrected drawings were not required. It is noted that the Notice of Allowability indicates that corrected drawings were required, including changes required by the Notice of Draftsperson's Patent Drawing Review. However, it is further noted that the Notice of Draftsperson's Patent Drawing Review indicates that the drawings were approved, and the Examiner's Amendment indicates that the drawings were acceptable.

1 See MPEP §710.02(e).

As such, it appears that the requirement for corrected drawings was made in error.

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

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

2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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26TH FLOOR
BOSTON MA 02199-7610

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AUG 13 2009

OFFICE OF PETITIONS

In re Patent No. 7,472,381	:	
Fox et al.	:	DECISION DISMISSING
Application No. 11/006,286	:	REQUEST FOR
Issue Date: December 30, 2008	:	RECONSIDERATION OF
Filed: December 7, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
082276-0103	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b), filed February 27, 2009, which is properly being treated as a petition under 37 CFR 1.705(d). Patentee requests that the determination of patent term adjustment be corrected from nine hundred thirty (930) days to one thousand fifty-seven (1057) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 930 days.

BACKGROUND

This application was filed on December 7, 2004. On August 25, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 930 days[1]. On December 30, 2008, the application matured into U.S. Patent No. 7,472,381, with a revised patent term adjustment of 930 days. The Office determined that the 389 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3]

[1] 930 days of Office delay was reduced by 0 days of applicant delay for a patent term adjustment of 930 days. No request for reconsideration of this initial determination was filed.

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

overlaps with the 930 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 930 (930 - 0) days.

On February 27, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1057 days under the court's interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on

---

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

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

[3] As of the issuance of the patent on December 30, 2008, the application was pending three years and 389 days.

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

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

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

[5] A first Office action (notice of allowance) was not mailed until August 25, 2008, fourteen months and 930 days after the application filing date, December 7, 2004.

the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 1057 (930 + 389 - 262 overlap)[6] days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentee asserts entitlement to 1057 days of patent term adjustment.

OPINION

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[7] *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:

---

[6] Patentee asserts that the period of delay under 35 U.S.C. 154(a)(1)(A) and 37 CFR 1.702(a) overlaps by 262 days with the period under 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b). Specifically, the overlapping period is the period between the day after the date which is three years after the filing date of the application, December 7, 2007, and the date on which the first Office action (notice of allowance) was mailed, August 25, 2008, or 262 days.

[7] 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.

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

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

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

under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), December 7, 2004, and ending on the date of issuance of the patent, December 30, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 930 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 389 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 389 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 930 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 389 days and the 930 days is neither permitted nor warranted. 930 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 930 days (930 days of Office delay - 0 days of applicant delay).

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Christina Tartera Donnell for

Anthony Knight
Supervisor
Office of Petitions

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PRAMUDJI WENDT & TRAN, LLP
1800 BERING DRIVE, SUITE 540
HOUSTON, TX 77057

Mail Date: 04/20/2010

Applicant	: Michael Ko	: DECISION ON REQUEST FOR
Patent Number	: 7655014	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,291	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Beyer Law Group LLP
P.O. BOX 1687
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Mail Date: 04/20/2010

Applicant	: Bradley W. Rice	: DECISION ON REQUEST FOR
Patent Number	: 7581191	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,294	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DAVID TOREN, ESQ.
ABELMAN FRAYNE & SCHWAB
666 THIRD AVENUE
NEW YORK NY 10017-5621

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Guenter Haas	:	
Application No. 11/006,311	:	DECISION ON PETITION
Filed: 7 December, 2004	:	
Attorney Docket No. DT-6925	:	

This is a decision on the petition filed on 20 October, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 24 August, 2006, for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed on 23 May, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 3 October, 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)).

As the issue fee was previously paid, the petition will be construed as a request to apply the previously paid amount towards the new Notice of Allowance.

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

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
ATTN: EDWARD J. BROOKS III
P.O. BOX 2938
MINNEAPOLIS MN 55402

In re Application of	:	
Leonard Forbes	:	
Application No. 11/006,312	:	ON PETITION
Filed: December 6, 2004	:	
Attorney Docket No. 1303.064US2	:	

This is a decision on the petition, filed February 17, 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 12, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2824 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

---

[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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Morrison & Foerster LLP
425 Market Street
San Francisco, CA 94105-2482

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AUG 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Enis Aykut Dengi et al.	:	
Application No. 11/006,323	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW
Attorney Docket No. 188122004000	:	FROM RECORD
	:	

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 12, 2007.

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

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on May 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **San Francisco Office of**
Novak, Druce & Quigg LLP
1000 Louisiana Street
53rd Floor
Houston, TX 77002

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 17, 2008

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/006331 Patent No.: 7320911 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the director/SPE's response to (571) 273-9990

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: _____

/Scott B. Geyer/ 2812
Acting SPE Art Unit

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

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MERCK AND CO., INC
P O BOX 2000
RAHWAY NJ 07065-0907

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JUL 0 7 2009

OFFICE OF PETITIONS

In re Application of
HERMES, JEFFERY D.
Application No. 11/006,335
Filed: 12/07/2004
Attorney Docket No. MRL-IFD-21600-US-NP

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed January 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

A review of Office computer database records indicates that there is a lack of common inventorship between the instant nonprovisional application and the provisional application (No. 60/350,130)[1] noted in the amendment submitted concurrently with the petition. The statute

[1] Applicants may have made a typographical error in identifying Application No. 60/350,130 in the accompanying amendment. Instead, applicants may have intended to claim the benefit of priority to Application No. 60/530,103 filed December 16, 2003.

requires that the applications claiming benefit of the earlier filing date under 35 U.S.C. §§ 119(e) or 120 be filed by an inventor or inventors named in the prior-filed nonprovisional or provisional application.

Accordingly, before the petition under 1.78(a)(6) can be granted, petitioner must file a renewed petition under 37 CFR 1.78(a)(6), accompanied by either a Supplemental Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121, 37 CFR 1.76 and 37 CFR 1.33(b)).[2] No additional petition fee is required.

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

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

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

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

Correspondence may also be submitted via EFS-Web.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[2] 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).

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KELLEY DRYE & WARREN LLP
400 ALTLANTIC STREET , 13TH FLOOR
STAMFORD CT 06901

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OFFICE OF PETITIONS

In re Application of

SELINFREUND, Richard H. et al.
Application No. 11/006,337
Filed: December 07, 2004
Attorney Docket No. **VTI-107(C)**

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 26, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Marvin Wachs on behalf of all attorneys of record who are associated with customer No. 47670. All attorneys/agents associated with the Customer Number 47670 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Richard Selinfreund at the address indicated below. There is an outstanding Office action mailed October 16, 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: **RICHARD SELINFREUND**
1285 MOOSE HILL ROAD
GUILD CT 06437

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Paper No.

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

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DEC 22 2008

In re Patent No. 7,366,635	:	DECISION ON REQUEST
Gupta et al.	:	FOR RECONSIDERATION OF
Issue Date: April 29, 2008	:	PATENT TERM ADJUSTMENT
Application No. 11/006,342	:	and
Filed: December 6, 2004	:	NOTICE OF INTENT TO ISSUE
Atty Docket No. 07844-686001	:	CERTIFICATE OF CORRECTION

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(D)" filed June 30, 2008. Patentees submit that the Patent Term Adjustment shown on the patent should be increased from three hundred sixty-two (362) days to three hundred sixty-four (364) days.

The request for reconsideration of the patent term adjustment indicated in the patent is **GRANTED to the extent indicated herein**.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of FOUR HUNDRED THIRTY-THREE (433) days.

On April 29, 2008, the above-identified application matured into U.S. Patent No. 7,366,635. The instant request for reconsideration filed Monday, June 30, 2008 was timely filed within 2 months of the date the patent issued. See § 1.705(d). The Patent issued with a revised Patent Term Adjustment of 362 days. In effect, patentees assert that the Office erred in not according the issue fee payment benefit of the date of deposit in Express Mail, July 2, 2007, for purposes of calculating patent term adjustment.

Patentees' argument has been considered and found persuasive. A review of the issue fee payment and USPS Track & Confirm records confirms that it was deposited in Express Mail on July 2, 2007, pursuant to 37 CFR 1.10. (The Express Mail label submitted on request for reconsideration was not legible. Nonetheless, the other evidence available to the undersigned confirms that the date of deposit is July 2, 2007). Pursuant to 37 CFR 1.703(f) the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in calculation of patent term adjustment. However, the date of deposit in the "Express Mail Post Office to Addressee " service of the United States Postal Service pursuant to 37 CFR 1.10 will be used for purposes of calculating patent term adjustment as the date of deposit is the date of receipt. As stated by patentees, using the date of deposit of July 2, 2007, there was no applicant delay in submitting the issue fee payment. Patentees did not, in fact, take in excess of three months to file the issue fee payment in response to the notice of allowance mailed April 2, 2007. Accordingly, the period of reduction pursuant to 37 CFR 1.704(b) of 1 day is not warranted and is being removed.

Likewise, the date of deposit of the issue fee payment, July 2, 2007, is properly used for calculating Office delay in taking more than four months to issue the patent after payment of the issue fee and satisfaction of all outstanding requirements. Accordingly, the period of adjustment pursuant to 37 CFR 1.702(a)(4) is being increased from 178 days to 179 days.

A review of the application history also reveals that the period of reduction of 120 days entered pursuant to 37 CFR 1.704(c)(10) is incorrect. 37 CFR 1.704(c) provides, in pertinent part, that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

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

(ii) Four months; …

In this instance, on July 2, 2007 (date of Express Mail deposit), then applicants filed a petition to accept color drawings, an amendment under § 1.312 and drawings. On August 21, 2007, the examiner mailed a response to all of these papers. Thus, the period of delay (beginning on July 2, 2007 and ending on August 21, 2007) pursuant to 37 CFR 1.704(c)(10) is 51 days. No other paper warranting entry of a period of reduction pursuant to 37 CFR 1.704(c)(10) was filed in this application. Accordingly, the period of reduction of 120 days entered pursuant to 37 CFR 1.704(c)(10) is being removed and a period of reduction of 51 days entered.

In view thereof, the patent term adjustment indicated on the patent should be FOUR HUNDRED THIRTY-THREE (433) days (305 + 179 days of Office delay reduced by 51 days of applicant delay).

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 Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by FOUR HUNDRED THIRTY-THREE (433) days.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,366,635 B1

DATED : **April 29, 2008** **DRAFT**

INVENTOR(S) : Gupta 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 362 days

Delete the phrase "by 362 days" and insert – by 433 days--

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PHILIP W. WOO
SIDLEY AUSUTIN BROWN & WOOD LLP
SUITE 2000
555 CALIFORNIA STREET
SAN FRANCISCO CA 94104-1715

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OFFICE OF PETITIONS

In re Application of
Alaa Elbanhawy
Application No.11/006,345
Filed: December 7, 2004
Attorney Docket No. 24317/83201

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 2, 2008, 2006, 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 Request For Continued Examination (RCE) and an amendment, (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Since this application was abandoned for failure to timely reply to the Final Rejection of October 12, 2007, within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. **See Lorenz v. Finkl**, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the RCE and the amendment is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

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 since the issue fee was timely paid on September 26, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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LSI CORPORATION
1621 BARBER LANE
MS: D-106
MILPITAS, CA 95035

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OFFICE OF PETITIONS

In re Application of :
Robin Wan Lung Ko :
Application No. 11/006,349 : ON PETITION
Filed: December 6, 2004 :
Attorney Docket No. 03-2328 81822/6653 :

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

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed November 5, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 6, 2008.

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

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Eric J. Whitesell
4485 Vereda Mar De Ponderosa
San Diego, CA 92130

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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ORTIZ & LOPEZ, PLLC
PATENT ATTORNEYS
P.O. BOX 4484
ALBUQUERQUE NM 87196-4484

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OFFICE OF PETITIONS

In re Application of	:
Mark L. Hanson et al.	:
Application No. 11/006,352	: DECISION REFUSING STATUS
Filed: December 6, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 20030331-US-NP	:

This decision is in response to the petition filed February 7, 2005, under 37 CFR 1.47(b), in response to the Notice to File Missing Parts "Notice" mailed January 10, 2005, which is treated under 37 CFR 1.47(a).

The petition is **DISMISSED.**

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

The above-identified application was filed on December 6, 2004, naming Mark L. Hanson, David M. Chapin, Jonathan Edmonds, Patrick Kevin Sheehan, Matthew Deroller, Krishna Kumar and Krishna Cherukupalli as joint inventors, but without the signature Krishna Cherukupalli on the declaration. Accordingly, on January 10, 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 seeking status under 37 CFR 1.47(b) based on the fact that joint inventor Cherukupalli could not be found.

At the outset, petitioner is advised that if none of the named inventor(s) will sign the oath or declaration, a petition under 37 CFR 1.47(b) must be filed. If some of the named inventors signed the oath or declaration and one or more of the named inventors have not signed the declaration, a petition under 37 CFR 1.47(a) must be filed. In the instant case, seven inventors have been named but the oath or declaration has been executed by six of the inventors, thus, this petition will be treated under 37 CFR 1.47(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

The present petition lacks item (1).

In regards to item (1), petitioners have not provided sufficient proof that joint inventor Cherukupalli cannot be located.

Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the efforts to locate joint inventor Cherukupalli, such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him, send a copy of the application papers to him at the last known address or give a copy of the application papers to him, and request that he sign and return the declaration. If repeated attempts to contact the non-signing inventor by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

If the non-signing inventor refuses in writing to sign the declaration, petitioners should provide a copy of that written refusal with any renewed petition. If a verbal refusal to sign is made to a person, details should be given in an affidavit or declaration of facts by a person having first hand knowledge of the facts of refusal.

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

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

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORTIZ & LOPEZ, PLLC
PATENT ATTORNEYS
P.O. BOX 4484
ALBUQUERQUE NM 87196-4484

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AUG 03 2005

OFFICE OF PETITIONS

In re Application of
Mark L. Hanson et al.
Application No. 11/006,352
Filed: December 6, 2004
Attorney Docket No. 20030331-US-NP

: 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 February 7, 2005 and was dismissed in a decision mailed June 2, 2005.

Papers filed July 26, 2005, in reply to the "Decision Refusing Status Under 37 CFR 1.47(a)" mailed June 2, 2005, included a declaration signed by the previously non-signing joint inventor Krishna Cherukupalli, in compliance with 37 CFR 1.63.

In view of the joinder of the joint inventor, further consideration under 37 CFR 1.47(a) is unnecessary.

The renewed petition filed July 26, 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 2122 and examination of the application will occur in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LOUIS J. HOFFMAN, P.C.
11811 NORTH TATUM BOULEVARD, SUITE 2100
PHOENIX, AZ 85028

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MAY 0 4 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Glenn R. Rink et al	:	
Application No. 11/006,354	:	
Filed: December 6, 2004	:	
Attorney Docket No. 55-PASTADIV2	:	

This is a decision on the petition filed January 24, 2007 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 15, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 16, 2006.

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

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Alston & Bird LLP)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

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MAY 2 1 2008

OFFICE OF PETITIONS

In re Application of :
Robert L. Campbellet al :
Application No. 11/006,369 : ON PETITION
Filed: December 6, 2004 :
Attorney Docket No. 035510/319529

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit an amendment in a timely manner in reply to the non-final Office action mailed July 12, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on October 13, 2007.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the amendment 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.

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 $1,640 extension of time fee submitted with the petition on January 30, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 1644 for consideration of the amendment in due course.

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Alston & Bird LLP
Bank of America Plaza
101 south Tryon Street, Suite 4000
Charlotte, NC 28280-4000

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

In re Application of
Han Chin-Lai
Application No. 11/006,402
Filed: December 6, 2004
Attorney Docket No.: 2005291-0001

: DECISION ON PETITION

This is a decision on the paper titled "Petition to Restore Original Filing Date under 37 CFR § 1.182, filed June 30, 2006.

The instant application was filed December 6, 2004 and a filing date was accorded. A March 4, 2006 non-Final Office Action advised however that because a proper response was not timely filed in the parent application, 10/773,985, which as a result became abandoned, no co-pendency exists between the parent case and the instant application. Therefore, since there is no co-pendency, the instant application can not claim the benefit of priority to the parent application.

In response thereof, the instant petition was filed. The petition however, should have been a petition to revive the parent application under 37 CFR 1.137(b) for co-pendency with the instant application.

The filing date is not the issue. The filing date accorded is December 6, 2004 and will not be changed by virtue of priority to the parent application being granted or denied. In view thereof, the petition to restore the filing date is **DISMISSED**.

Petitioner may wish to consider filing a petition under 37 CFR 1.137(b)[1] in the parent application, which now provides that where the delay in reply was

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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)).

unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). The required reply for the Notice to File Missing Parts mailed May 5, 2004 would be the oath or declaration. Petitioners may not request that the oath or declaration filed in the instant application be transferred to the parent application. The oath or declaration must therefore be filed with the petition to revive.

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). At this writing, a petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity. The fee is subject to change and petitioner should check the regulations prior to filing a petition to ensure the proper fee is being remitted.

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

DEC 20 2[illegible]

In re Application of	:	
Robert L. Campbell et al	:	NOTICE OF WITHDRAWAL
Serial No. 11/006422	:	FROM ISSUE
Filed: 12/06/2004	:	UNDER 37 CFR 1.313(b)
For: MOLECULES ENHANCING DERMAL	:	
DELIERY OF INFLUENZA VACCINES	:	

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

The application is being withdrawn to consider an amendment that crossed in the mail with the Notice of Allowance. The reasons therefore will be communicated to you by the examiner, Stuart Snyder.

PTO records reveal that the issue fee has not been paid. If the issue fee has been submitted, the applicant may request a refund or may request that the fee be credited to a deposit account. However, applicant may wait until the application is either again found allowable or held abandoned. If the application is allowed, upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that the previously submitted issue fee be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due. If the application is abandoned, applicant may request either a refund or a credit to a deposit account.

The application is being forwarded to the examiner for action.

John L. LeGuyader, Director
Technology Center 1600

Becton, Dickinson and Company (Alston & Bird LLP)
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

cc: Allowed Files
Drafting Branch

UNITED STATES PATENT AND TRADEMARK OFFICE

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HICKMAN PALERMO TRUONG & BECKER LLP/Yahoo! Inc.
2055 Gateway Place
Suite 550
San Jose, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Shyam Kapur	: DECISION ON REQUEST FOR
Patent Number	: 7620628	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,466	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/06/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **378** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GILBRETH & ASSOCIATES, P.C.
P.O. BOX 2428
BELLAIRE, TX 77402-2428

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OFFICE OF PETITIONS

In re Application of
Paul L. HERMONAT, et al
Application No. 11/006,468
Filed: December 6, 2004
Attorney Docket No. 23355/55D1

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed March 22, 2007 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one (1) month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned 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 election, (2) the petition fee of $770; 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 $1115 extension of time fee submitted with the petition on November 14, 2007 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

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.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1648 for appropriate action by the Examiner in the normal course of business on the reply received November 14, 2007.

April Wise
Petitions Examiner
Office of Petitions

cc: L. JOSEPH UNDERWOOD
4301 W. MARKHAM SLOT 812
LITTLE ROCK, AZ 72205

UNITED STATES PATENT AND TRADEMARK OFFICE

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111 CENTER ST.
TWENTY-SECOND FLOOR
LITTLE ROCK, AR 72201

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OFFICE OF PETITIONS

In re Application of
Paul L. HERMONAT, et al
Application No. 11/006,468
Filed: December 6, 2004
Attorney Docket No. 23355/55D1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 5, 2007.

The request is **NOT APPROVED**.

A review of the file record indicates that L. Joseph Underwood does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

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

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

April Wise
Petitions Examiner
Office of Petitions

cc: TERESA D. SHADDOCK
UAMS BIO VENTURES,
4301 W. MARKHAM ST., #831
LITTLE ROCK, AR 72205

UNITED STATES PATENT AND TRADEMARK OFFICE

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McCarter & English, LLP
Four Gateway Center
100 Mulberry Street
Newark, NJ 07102

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OFFICE OF PETITIONS

In re Application of	:	
Michael E. Shanahan	:	
Application No. 11/006,474	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. MES/005 CON1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 29, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 8, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). 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 9, 2007. A Notice of Abandonment was mailed on March 26, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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. Accordingly, the RCE 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 $525 extension of time fee submitted with the petition on September 29, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3625 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.

Carl Friedman
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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Steve Mendelsohn
Mendelsohn & Associates, P. C.
1515 Market Street, Suite 715
Philadelphia, PA 19102

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OFFICE OF PETITIONS

In re Application of	:	
Eric Allamanche, et al.	:	
Application No. 11/006,482	:	DECISION GRANTING
Filed: December 7, 2004	:	PETITION
Attorney Docket No. Allamanche 2-3-18-4	:	

This is a decision on the petition filed January 24, 2005, requesting that the above-identified application be accorded a filing date of December 7, 2004, rather than the presently accorded date of December 6, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

The petition is **GRANTED**.

Petitioner alleges that the application was deposited in Express Mail Service on December 7, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. EV140152214US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 7, 2004.

This application file is being forwarded to the Office of Initial Patent Examination Division for further **processing with a filing date of December 7, 2004.** Thereafter, the application file will be forwarded to Technology Center 1600 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3223.

Marianne E. Jenkins

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091230

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:

No change in scope. Approved.

Examiner Roy Gibson

/Linda C Dvorak/
Supervisory Patent Examiner, Art Unit 3739

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of

KIM, Daniel H.
Application No. 11/006,495
Filed: December 06, 2004
Attorney Docket No. **STAN-387CIP**

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Karl Bozicevic, on behalf of all attorneys of record who are associated with customer No. 24353. 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: **DANIEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN VIEW, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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
11/006,495	12/06/2004	Daniel H. Kim	STAN-387CIP

CONFIRMATION NO. 5312

OC000000023651808

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 05/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

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

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

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RIMAS LUKAS
LUKAS IP GROUP
120 CRISTIANITOS ROAD
#12306
SAN CLEMENTE, CA 92673

MAILED

APR 14 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	DECISION ON PETITION
Application No. 11/006,495	:	TO WITHDRAW
Filed: December 6, 2004	:	FROM RECORD
Attorney Docket: 65837-8001US1	:	

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 27, 2010.

The request is **DISMISSED**.

A review of the file record does not indicate that Lukas IP Group was ever appointed power of attorney in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

Accordingly, all future communications from the Office will be directed to the current address of record.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Alicia Kelley
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
1 Becton Drive
MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 07/26/2010

Applicant	: Lucio Giambattista	: DECISION ON REQUEST FOR
Patent Number	: 7666164	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/006,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: 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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAY 10 2007

OFFICE OF PETITIONS

BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

In re Application of
KIM, Daniel H.
Application No. 11/006,502
Filed: December 06, 2004
Attorney Docket No. **STAN-388CIP**

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Karl Bozicevic on behalf of all attorneys of record who are associated with customer No. 24353. 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: **DANIEL H. KIM**
156 PACCHETTI WAY
MOUNTAIN VIEW, CA 94040

cc: **MAYER & WILLIAMS PC**
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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APR 23 2010

OFFICE OF PETITIONS

VertiFlex, Inc.
Perkins Coie, LLP
P.O. Box 1247
Seattle, WA 98111-1247

In re Application of	:	
Daniel H. Kim	:	
Application No. 11/006,502	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW
Attorney Docket No. VFX01-20002.01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 81910 have been revoked by the assignee of the patent application on January 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Perkins Coie, LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Kathryn E. Uhrich et al.	:	
Application No. 11/006,506	:	DECISION ON PETITION
Filed: December 7, 2004	:	TO WITHDRAW
Attorney Docket No. 1435.029US1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 24, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Monique Shonka and all attorneys/agents of record has been revoked by the assignee of the patent application on April 26, 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: Viksnins, Harris & Padys, PLLP
P.O. Box 111098
St. Paul, MN 55111-1098

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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	: Mahendra J. Tailor	: DECISION ON REQUEST FOR
Patent Number	: 7613425	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,520	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **839** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO CA 94303

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	
Application No. 11/006,521	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW
Attorney Docket No. STAN-393	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 19, 2007.

The request is **APPROVED**.

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

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

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

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

There are no pending Office actions at the present time.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL H. KIM
156 PACCHETTI WAY
MOUNTAIN VIEW, CA 94040

cc: MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/006,521	12/06/2004	Daniel H. Kim	STAN-393

CONFIRMATION NO. 4956

OC000000024632453

24353
BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

Date Mailed: 07/02/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/19/2007.

- 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.

April McRuse

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

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RIMAS LUKAS
VERTIFLEX, INC.
1351 CALLE AVANZADO
SAN CLEMENTE CA 92673

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OCT 0 1 2007

OFFICE OF PETITIONS

In re Application of Daniel H. Kim Application No. 11/006,521 Filed: 12/06/2004 Title: SYSTEMS AND METHODS FOR STABILIZING THE MOTION OR ADJUSTING THE POSITION OF THE SPINE	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 1, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the Application Data Sheet (ADS) and the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

The Office notes that 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). 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.

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

Although the amendment filed May 1, 2007, is improper and unacceptable, applicant filed an Application Data Sheet under 37 CFR 1.76, on May 1, 2007, which contains a proper claim for priority to the prior-filed nonprovisional application.

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

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional 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 3733 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 T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/006,521	12/06/2004	3733	460		20	3

CONFIRMATION NO. 4956

CORRECTED FILING RECEIPT

OC000000026080828

68823
RIMAS LUKAS
VERTIFLEX, INC.
1351 CALLE AVANZADO
SAN CLEMENTE, CA 92673

Date Mailed: 09/28/2007

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

Applicant(s)

Daniel H. Kim, Mountain View, CA;

Assignment For Published Patent Application

The Board of Trustees of the Leland Stanford Junior University

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/970,843 10/20/2004

Foreign Applications

If Required, Foreign Filing License Granted: 01/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/006,521

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Systems and methods for stabilizing the motion or adjusting the position of the 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 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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Perkins Coie, LLP
P.O. Box 1247
Seattle, WA 98111-1247

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MAR 31 2010

OFFICE OF PETITIONS

In re Application of	:	
Daniel H. Kim	:	
Application No. 11/006,521	:	DECISION ON PETITION
Filed: December 6, 2004	:	TO WITHDRAW
Attorney Docket No. VFX01-20003.00	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 11, 2010.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to all attorneys/agents associated with customer number 81910 have been revoked by the assignee of the patent application on January 19, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Perkins Coie, LLP
Patent-SEA
P.O. Box 1247
Seattle, WA 98111-1247

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

Mail Date: 04/20/2010

Applicant	: David Deas Sinkler Poor	: DECISION ON REQUEST FOR
Patent Number	: 7606421	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,547	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1350** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

In re Application of:
Satou
Application No. 11/006,561
Filed: December 8, 2004
PGPUB: US2005/0082541 A1 4/21/05
Docket No.: 039280.96

: ON PETITION

This is a decision on the petition filed October 12, 2005, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **dismissed**. This is not a final agency action. Any request for reconsideration of this decision must be filed within TWO MONTHS of the above-given mail date. See 37 CFR 1.181(g). This time period is not extendable under the provisions of 37 CFR 1.136(a) or (b).

BACKGROUND

Original application for patent no. 08/849, 288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicants filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent.This was reflected, *inter alia*, in its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly present claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. Thus, the '639 application, as filed was clearly a boradening reissue application that included 15 new claims. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims patent were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application.

On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '609 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '609 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '609 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

On November 5, 2003, the USPTO mailed a Notice of Publication of Application that advised applicant that the '198 divisional application would be published on November 6, 2003, as US-2003-0207506-A1.

On November 6, 2003, the 198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,561 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On January 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On April 21, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on April 21, 2005, as US-20050082541 A1, and on the same date published this application.

OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application Np. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent is seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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[1] See Ex parte Johnson, 117 USPQ 412 (Pat. Off. Bd. App. 1956) ``the practice under [Rule 177] ... has been for the Commissioner or some official delegated by him to write a memorandum to the examiner directing what action should be taken insofar as the separation of the original patent into several reissue patents is concerned."

[2] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*, Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party or his representative makes an avoidable mistake in filing or not filing papers); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO.

Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to divisional applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed July 31, 2003, in the '198 non-reissue divisional apprised petitioner that he had filed a divisional application; it did not apprise petitioner that he had filed an application that was both a divisional of the '639 application and a reissue of the '607 patent Still further, the Notice of Publication of Application mailed November 5, 2003, advised petitioner that the '198 application would be published on November 6, 2003, as US-2003-0207506-A1. As such, petitioner long ago knew, or should have known, that he hd not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and several similarly situated non reissue divisional applications until the original patent was applied to reject the claims in these applications claims under the rationale of In re Bauman.

Likewise, the public has had since November 6, 2003, to rely on the fact that the published '198 application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional]application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

DECISION

For the reasons given above, that balancing of the interests of the patentee with that of the public should here be found in favor of the public interest in finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198 application. The petition is **dismissed.**

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Any request for reconsideration of this decision should be addressed as follows:

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

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

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

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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www.uspto.gov

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P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of:
Satou
Application No. 11/006,561
Filed: December 8, 2004
PGPUB: US2005/0082541 A1 4/21/05
Docket No.: 039280.96

: ON PETITION

This is a decision on the petition filed January 17, 2006, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **denied**.

BACKGROUND

Original application for patent no. 08/849,288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicant filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent.This was reflected, *inter alia*, in its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation of the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly present claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. Thus, the '639 application, as filed was clearly a broadening reissue application that included 15 new claims. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims patent were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 16, 2001, pursuant to 37 CFR 1.11(b), an *Official Gazette (O.G.)* notice informed the public that the '639 application had been filed to reissue the '607 patent.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application. On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '609 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '609 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '609 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

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On November 6, 2003, the '198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,561 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On January 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On April 21, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on April 21, 2005, as US-20050082541 A1, and on the same date published this application.

On October 12, 2005, applicant filed a petition under 37 CFR 1.182 requesting that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition was dismissed in the decision of November 15, 2005.

The instant renewed petition was filed January 17, 2006.

PREVIOUS OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application no. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent in seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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[1] See Ex parte Johnson, 117 USPQ 412 (Pat. Off. Bd. App. 1956) ``the practice under [Rule 177] ... has been for the Commissioner or some official delegated by him to write a memorandum to the examiner directing what action should be taken insofar as the separation of the original patent into several reissue patents is concerned."

[2] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*,Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party or his representative makes an avoidable mistake in filing or not filing papers); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO.)

Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to divisional applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed July 31, 2003, in the '198 non-reissue divisional apprised petitioner that he had filed a divisional application; it did not apprise petitioner that he had filed an application that was both a divisional of the '639 application and a reissue of the '607 patent. Still further, the Notice of Publication of Application mailed November 5, 2003, advised petitioner that the '198 application would be published on November 6, 2003, as US-2003-0207506-A1. As such, petitioner long ago knew, or should have known, that he had not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and several similarly situated non reissue divisional applications until the original patent was applied to reject the claims in these applications claims under the rationale of In re Bauman.

Likewise, the public has had since November 6, 2003, to rely on the fact that the published '198 application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional] application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

OPINION RE: RENEWED PETITION

Petitioner requests reconsideration and asserts that (1) contrary to the positions taken above by the USPTO re [lack of] public notice, and [lack of] diligence, the public was put on notice, upon the instant pre grant publication on April 21, 2005, that applicant was continuing to seek to correct errors of inadequate claim scope in the original patent, and (2) petitioner has acted with diligence since at least June 27, 2005 to correct the matter.

As to item (1) above, whatever notice was given to the public by the pre grant publication of this application on April 21, 2005, that notice, by definition, simply could not have been to the effect that there was yet another reissue application seeking to broaden the claims of the original '607 patent. Applications for reissue are simply not subject to pre grant publication. Notwithstanding the total lack of compliance herein with the regulations pertaining to the filing of a reissue application, the pre grant publication of this application simply could not operate to place the public on notice that yet another broadening reissue application of the '607 patent had been filed; it only put the public on notice that a non reissue application had been filed. Petitioner also overlooks that under 37 CFR 1.11(b), the fact of filing of all reissue applications after March 1, 1977,(except for continued prosecution applications (CPA's) filed under 37 CFR 1.53(d)) is announced in the Official Gazette *(O.G.)*, and such thereafter are open to inspection by the general public.[4] The total lack of any *O.G.* notice whatsoever indicating that this application was yet another broadening reissue of the '607 patent further refutes petitioner's contention; regardless of the claimed subject matter presented herein, such was manifestly not placed in a divisional application for reissue of the '607 patent. Accordingly, and further for the reasons of Dien and Fotland, the interested public is here entitled to rely, and to continue to reply, upon the absence of another broadening reissue of the '106 patent in addition to the '639 reissue application, which issued as RE38,292. Petitioner is not unduly prejudiced by this decision in that petitioner has already filed and obtained a broadening reissue of the '607 patent that was expressly filed for the purpose of correcting the error of insufficiently broad claims in the original patent, and to this end the reissue patent contained 18 additional claims.

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[4] The announcement gives interested members of the public an opportunity to submit to the examiner information pertinent to the patentability of the reissue application. The announcement includes the filing date, reissue application and original patent numbers, title, class and subclass, name of the inventor, name of the owner of record, name of the attorney or agent of record, and the Technology Center (TC) to which the reissue application is initially assigned. IFW reissue application files are open to inspection by the general public by way of Public PAIR via the USPTO Internet site. In viewing the images of the files, members of the public will be able to view the entire content of the reissue application file history. To access Public PAIR, a member of the public would go to the USPTO web site at http://www.uspto.gov. However, this application was only publicly viewable upon its pre grant publication.

As to item (2) above, petitioner's contention that reasonable diligence since at least June 29, 2005, has been shown is noted, but upon considering all the circumstances of this case, especially that petitioner has already obtained a broadening reissue of the '607 patent containing 18 additional claims, that contention is not found persuasive. Petitioner had the opportunity during the pendency of that first broadening reissue to present every claim filed herein, as well as every claim presented in non reissue divisional application No. 10/458,198 filed June 11, 2003, for consideration in the first broadening reissue. It was unfortunate, but not beyond petitioner's control, that the application papers for the '198 and instant applications did not comply with the rules applicable to divisional applications that are also for reissue in the same manner that the application papers for the '639 reissue application complied with the rules applicable to reissue applications. It was also unfortunate, but not beyond petitioner's control, that the information on the filing receipts for the '198 and instant applications were not diligently scrutinized and acted upon in the same manner that the filing receipt for the '639 reissue application papers was diligently scrutinized, and acted upon. Further, while petitioner asserts diligence for the last few months, the current predicament arises due to petitioner's protracted failure, since June 11, 2003, when the first, non reissue divisional '198 application was filed, to know and apply the rules applicable to divisional reissues, and the interested public had since then to rely upon the absence of yet another divisional broadening reissue of the'106 patent. Applying the sentiments of the Fotland and Graff courts to this case, petitioner is properly refused the requested relief as petitioner did not meet the requirements for a true broadening divisional reissue[5] during the pendency of the first broadening reissue application, and petitioner compounded his initial filing error when the instant non reissue divisional application was filed on December 8, 2004. It is incumbent upon an applicant to prosecute his invention with continuing diligence and an acute awareness of the statute. See BEC Pressure Controls Corporation v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (D.C. N.Ind. 1974). Having failed to diligently take appropriate action to secure additional broadened claim coverage during the prosecution of the original reissue application, much less to secure the proper filing of copending divisional applications that were also applications for reissue of the original '106 patent, petitioner cannot now be heard to complain as the window for presentation of such claims and reissue applications has long been closed. See Bauman at 590 (holding that a non reissue continuation of a prior reissue application is entitled to the benefit of the filing date of the prior reissue application under 35 U.S.C. § 120). That is, as petitioner did not really ask for any additional broadening divisional reissue application(s) during the period from June 11, 2003, to June 29, 2005, the instant request comes far too late. See Dien, supra, see also Wollensak, supra.

DECISION

For the reasons given above, and balancing of the interests of the patentee with that of the public, that balance will be found in favor of the public interest in the finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198

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[5] The original '607 patent issued July 27, 1999. Pursuant to 35 U.S.C. § 251, any broadening reissue had to be filed on or before July 27, 2001, or be filed, *ab initio* as a broadening reissue that itself claimed benefit under 35 U.S.C. § 120 of a broadening reissue filed on or before July 27, 2001. The '639 broadening reissue was filed July 13, 2001. The first non reissue divisional, the '198 application, filed June 11, 2003, was thus copending with the '639 reissue which issued October 28, 2003. Petitioner had ample to time correct his non reissue filing error to avoid the use of his original patent issued July 27, 1999 as a reference against any claim where that claim, as here, is found in a non reissue divisional application that is limited by 35 U.S.C. §120 to a filing date of June 11, 2003.

application. The petition is **denied.** This application will continue to be treated by the USPTO as a non reissue division application.

This decision may be considered a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002. The USPTO will not further consider or reconsider this matter.

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Telephone inquiries related to this communication should be directed to Petitions Examiner Brian Hearn at (571) 272-3217.

Charles Pearson, Director
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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In re Application of:
Satou
Application No. 11/006,568
Filed: December 8, 2004
PGPUB: US2005/008999 A1 4/21/05
Docket No.: 039280.94

: ON PETITION

This is a decision on the petition filed October 12, 2005, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **dismissed**. This is not a final agency action. Any request for reconsideration of this decision must be filed within TWO MONTHS of the above-given mail date. See 37 CFR 1.181(g). This time period is not extendable under the provisions of 37 CFR 1.136(a) or (b).

BACKGROUND

Original application for patent no. 08/849, 288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicants filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent.This was reflected, *inter alia*, in its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly present claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. Thus, the '639 application, as filed was clearly a boradening reissue application that included 15 new claims. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims patent were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application.

On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '609 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '609 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '609 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

On November 5, 2003, the USPTO mailed a Notice of Publication of Application that advised applicant that the '198 divisional application would be published on November 6, 2003, as US-2003-0207506-A1.

On November 6, 2003, the 198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,568 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On January 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On April 21, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on April 21, 2005, as US-20050084999 A1, and on the same date published this application.

OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application Np. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent is seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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[1] See Ex parte Johnson, 117 USPQ 412 (Pat. Off. Bd. App. 1956) ``the practice under [Rule 177] ... has been for the Commissioner or some official delegated by him to write a memorandum to the examiner directing what action should be taken insofar as the separation of the original patent into several reissue patents is concerned."

[2] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*, Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

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Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to divisional applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed July 31, 2003, in the '198 non-reissue divisional apprised petitioner that he had filed a divisional application; it did not apprise petitioner that he had filed an application that was both a divisional of the '639 application and a reissue of the '607 patent Still further, the Notice of Publication of Application mailed November 5, 2003, advised petitioner that the '198 application would be published on November 6, 2003, as US-2003-0207506-A1. As such, petitioner long ago knew, or should have known, that he hd not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and several similarly situated non reissue divisional applications until the original patent was applied to reject the claims in these applications claims under the rationale of In re Bauman.

Likewise, the public has had since November 6, 2003, to rely on the fact that the published '198 application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional]application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

DECISION

For the reasons given above, that balancing of the interests of the patentee with that of the public should here be found in favor of the public interest in finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198 application. The petition is **dismissed.**

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Any request for reconsideration of this decision should be addressed as follows:

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

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

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

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
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

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of: :
Satou :
Application No. 11/006,568 : ON PETITION
Filed: December 8, 2004 :
PGPUB: US2005/008999 A1 4/21/05 :
Docket No.: 039280.94 :

This is a decision on the renewed petition filed January 17, 2006, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **denied.**

BACKGROUND

Original application for patent no. 08/849,288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicant filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent. This was reflected, *inter alia*, by its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation of the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly presented claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date, the '939 application as filed, was clearly a broadening reissue application that contained 15 new claims.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 16, 2001, pursuant to 37 CFR 1.11(b), an *Official Gazette (O.G.)* notice informed the public that the '639 application had been filed to reissue the '607 patent.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application. On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '609 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '63 9 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '639 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

On November 5, 2003, the USPTO mailed a Notice of Publication of Application that advised applicant that the '198 divisional application would be published on November 6, 2003, as US-2003-0207506-A1.

On November 6, 2003, the '198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,568 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On January 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On April 21, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on April 21, 2005, as US-20050084999 A1, and on the same date published this application.

On October 12, 2005, applicant filed a petition under 37 CFR 1.182 requesting that the USPTO convert the above-captioned application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition was dismissed in the decision of November 15, 2005.

The instant renewed petition was filed January 17, 2006.

PREVIOUS OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application no. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent in seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional] application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

OPINION RE: RENEWED PETITION

Petitioner requests reconsideration and asserts that (1) contrary to the positions taken above by the USPTO re [lack of] public notice, and [lack of] diligence, the public was put on notice, upon the instant pre grant publication on April 21, 2005, that applicant was continuing to seek to correct errors of inadequate claim scope in the original patent, and (2) petitioner has acted with diligence since at least June 27, 2005 to correct the matter.

As to item (1) above, whatever notice was given to the public by the pre grant publication of this application on April 21, 2005, that notice, by definition, simply could not have been to the effect that there was yet another reissue application seeking to broaden the claims of the original '607 patent. Applications for reissue are simply not subject to pre grant publication. Notwithstanding the total lack of compliance herein with the regulations pertaining to the filing of a reissue application, the pre grant publication of this application simply could not operate to place the public on notice that yet another broadening reissue application of the '607 patent had been filed; it only put the public on notice that a non reissue application had been filed. Petitioner also overlooks that under 37 CFR 1.11(b), the fact of filing of all reissue applications after March 1, 1977,(except for continued prosecution applications (CPA's) filed under 37 CFR 1.53(d)) is announced in the Official Gazette *(O.G.)*, and such thereafter are open to inspection by the general public .[4] The total lack of any *O.G.* notice whatsoever indicating that this application was yet another broadening reissue of the '607 patent further refutes petitioner's contention; regardless of the claimed subject matter presented herein, such was manifestly not placed in a divisional application for reissue of the '607 patent. Accordingly, and further for the reasons of Dien and Fotland, the interested public is here entitled to rely, and to continue to rely, upon the absence of another broadening reissue of the '106 patent in addition to the '639 reissue application, which issued as RE38,292. Petitioner is not unduly prejudiced by this decision in that petitioner has already filed and obtained a broadening reissue of the '607 patent that was expressly filed for the purpose of correcting the error of insufficiently broad claims in the original patent, and to this end the reissue patent contained 18 additional claims.

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[4] The announcement gives interested members of the public an opportunity to submit to the examiner information pertinent to the patentability of the reissue application. The announcement includes the filing date, reissue application and original patent numbers, title, class and subclass, name of the inventor, name of the owner of record, name of the attorney or agent of record, and the Technology Center (TC) to which the reissue application is initially assigned. IFW reissue application files are open to inspection by the general public by way of Public PAIR via the USPTO Internet site. In viewing the images of the files, members of the public will be able to view the entire content of the reissue application file history. To access Public PAIR, a member of the public would go to the USPTO web site at http://www.uspto.gov. However, this application was only publicly viewable upon its pre grant publication.

As to item (2) above, petitioner's contention that reasonable diligence since at least June 29, 2005, has been shown is noted, but upon considering all the circumstances of this case, especially that petitioner has already obtained a broadening reissue of the '607 patent containing 18 additional claims, that contention is not found persuasive. Petitioner had the opportunity during the pendency of that first broadening reissue to present every claim filed herein, as well as every claim presented in non reissue divisional application no. 10/458,198 filed June 11, 2003, for consideration in the first broadening reissue. It was unfortunate, but not beyond petitioner's control, that the application papers for the '198 and instant applications did not comply with the rules applicable to divisional applications that are also for reissue in the same manner that the application papers for the '639 reissue application complied with the rules applicable to reissue applications. It was also unfortunate, but not beyond petitioner's control, that the information on the filing receipts for the '198 and instant applications were not diligently scrutinized in the same manner that the filing receipt for the '639 reissue application papers was diligently scrutinized, and acted upon. Further, while petitioner asserts diligence for the last few months, the current predicament arises due to petitioner's protracted failure, since June 11, 2003, when the first, non reissue divisional '198 application was filed, to know and apply the rules applicable to divisional reissues, and the interested public had since then to rely upon the absence of yet another divisional broadening reissue of the'106 patent. Applying the sentiments of the Fotland and Graff courts to this case, petitioner is properly refused the requested relief as petitioner did not met the requirements for a true broadening divisional reissue within the time limit[5], during the pendency of the first broadening reissue application, and petitioner compounded his initial filing error when the instant non reissue divisional application was filed on December 8, 2004. It is incumbent upon an applicant to prosecute his invention with continuing diligence and an acute awareness of the statute. See BEC Pressure Controls Corporation v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (D.C. N.Ind. 1974). Having failed to diligently take appropriate action to secure additional broadened claim coverage during the prosecution of the original reissue application, much less to secure the proper filing of copending divisional applications that were also applications for reissue of the original '106 patent, petitioner cannot now be heard to complain as the window for presentation of such claims and reissue applications has long been closed. See Bauman at 590 (holding that a non reissue continuation of a prior reissue application is entitled to the benefit of the filing date of the prior reissue application under 35 U.S.C. § 120). That is, as petitioner did not really ask for any additional broadening divisional reissue application(s) during the period from June 11, 2003, to June 29, 2005, the instant request comes far too late. See Dien, supra, see also Wollensak, supra.

DECISION

For the reasons given above, and balancing of the interests of the patentee with that of the public, that balance will be found in favor of the public interest in the finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198

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[5] The original '607 patent issued July 27, 1999. Pursuant to 35 U.S.C. § 251, any broadening reissue had to be filed on or before July 27, 2001, or be filed, *ab initio* as a broadening reissue that itself claimed benefit under 35 U.S.C. § 120 of a broadening reissue filed on or before July 27, 2001. The '639 broadening reissue was filed July 13, 2001. The first non reissue divisional, the '198 application, filed June 11, 2003, was thus copending with the '639 reissue which issued October 28, 2003. Petitioner had ample to time correct his non reissue filing error to avoid the use of his original patent issued July 27, 1999 as a reference against any claim where that claim, as here, is found in a non reissue divisional application that is limited by 35 U.S.C. §120 to a filing date of June 11, 2003.

application. The petition is **denied.** This application will continue to be treated by the USPTO as a non reissue division application.

This decision may be considered a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002. The USPTO will not further consider or reconsider this matter.

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Telephone inquiries related to this communication should be directed to Petitions Examiner Brian Hearn at (571) 272-3217.

Charles Pearson, Director
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Hajime Kimura et al	:	
Application No. 11/006,589	:	ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. 12732-135002/US6186D1	:	

This is a decision on the petition, filed November 17, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 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

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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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Kalle Tammi	: DECISION ON REQUEST FOR
Patent Number	: 7583963	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 05/18/2010

Applicant : Kalle Tammi
Patent Number : 7583963
Issue Date : 09/01/2009
Application No : 11/006,608
Filed : 12/08/2004

: 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 **1272** 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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Poughkeepsie NY 12603-5521

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OFFICE OF PETITIONS

In re Application of
Robert Cadwallader
Application No. 11/006,676
Filed: December 8, 2004
Title of Invention: STEERABLE WALKING ROCKING HORSE

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 3, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on May 6, 2005. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 7, 2005. A Notice of Abandonment was mailed on January 27, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of:
Satou
Application No. 11/006,684
Filed: December 8, 2004
PGPUB: US2005/0104071 A1 5/19/05
Docket No.: 039280.95

: ON PETITION

This is a decision on the petition filed October 12, 2005, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **dismissed**. This is not a final agency action. Any request for reconsideration of this decision must be filed within TWO MONTHS of the above-given mail date. See 37 CFR 1.181(g). This time period is not extendable under the provisions of 37 CFR 1.136(a) or (b).

BACKGROUND

Original application for patent no. 08/849, 288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicants filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent.This was reflected, *inter alia*, in its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly present claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. Thus, the '639 application, as filed was clearly a boradening reissue application that included 15 new claims. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims patent were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application.

On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '609 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '609 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '609 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

On November 5, 2003, the USPTO mailed a Notice of Publication of Application that advised applicant that the '198 divisional application would be published on November 6, 2003, as US-2003-0207506-A1.

On November 6, 2003, the 198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,684 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On February 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On May 19, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on May 19, 2005, as US-2005010407 A1, and on the same date published this application.

OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application Np. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent is seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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[1] See Ex parte Johnson, 117 USPQ 412 (Pat. Off. Bd. App. 1956) ``the practice under [Rule 177] ... has been for the Commissioner or some official delegated by him to write a memorandum to the examiner directing what action should be taken insofar as the separation of the original patent into several reissue patents is concerned."

[2] Because the USPTO regulations are published in the Federal Register as required by the Federal Register Act, 44 U.S.C. §1505 (formerly 44 U.S.C. §§5, 7), they are binding, even in the absence of actual knowledge. See, *e.g.*, Timber Access Industries Co. v. United States, 213 Ct. Cl. 648, 553 F.2d 1250, 1255 (1977); Andrews v. Knowlton, 509 F.2d 898, 905 (2d Cir.), cert. denied, 423 U.S. 873 (1975); United States v. Aarons, 310 F.2d 341, 345-48 (2d Cir. 1962); In re Pacific Far East Line, Inc., 314 F.Supp. 1339, 1348 (N.D. Cal. 1970), aff'd, 472 F.2d 1382 (9th Cir. 1973).

Co. v. Comer, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (circumstances are not extraordinary, and do not require waiver of the rules, when a party or his representative makes an avoidable mistake in filing or not filing papers); Vincent v. Mossinghoff, 230 USPQ 621, 625 (D.D.C. 1985)(petitioner's failure to take adequate notice of USPTO procedures will not be permitted to shift, in equity, his lack of diligence onto the USPTO.

Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to divisional applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed July 31, 2003, in the '198 non-reissue divisional apprised petitioner that he had filed a divisional application; it did not apprise petitioner that he had filed an application that was both a divisional of the '639 application and a reissue of the '607 patent Still further, the Notice of Publication of Application mailed November 5, 2003, advised petitioner that the '198 application would be published on November 6, 2003, as US-2003-0207506-A1. As such, petitioner long ago knew, or should have known, that he hd not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and several similarly situated non reissue divisional applications until the original patent was applied to reject the claims in these applications claims under the rationale of In re Bauman.

Likewise, the public has had since November 6, 2003, to rely on the fact that the published '198 application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional]application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

DECISION

For the reasons given above, that balancing of the interests of the patentee with that of the public should here be found in favor of the public interest in finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198 application. The petition is **dismissed.**

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Any request for reconsideration of this decision should be addressed as follows:

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

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

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

Telephone inquiries related to this communication should be directed to the undersigned at (571) 272-3217.

Brian Hearn

Brian Hearn
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

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

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OFFICE OF PETITIONS

In re Application of:
Satou
Application No. 11/006,684
Filed: December 8, 2004
PGPUB: US2005/0104071 A1 5/19/05
Docket No.: 039280.95

: ON PETITION

This is a decision on the renewed petition filed January 17, 2006, requesting under 37 CFR 1.182 that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition is **denied**.

BACKGROUND

Original application for patent no. 08/849,288 entered the national stage in the United States under 35 U.S.C. § 371 on May 30, 1997, from international application no. PCT/JP96/02858 filed October 2, 1996, and was issued in due course as U.S. Patent No. 5,930,607 ('607) on July 27, 1999.

On July 13, 2001, applicant filed an application given the control no. 09/903,639 ('639). The application, as filed, clearly and unambiguously sought to reissue the '607 patent. This was reflected, *inter alia*, in its transmittal letter, reissue declaration, consent of the assignee to the filing of a reissue, request for transfer of drawings from the original patent to the reissue, claim for priority, as well as by way of presentation of the specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1), the presence of each of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b), and the numbering of claims following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b), with the underlining of each newly presented claim in the manner required by 37 CFR 1.173(b), clearly and unambiguously sought to reissue the '607 patent. As the error given in the reissue declaration was that the patent claimed less than the inventor had a right to claim in that the original patent claims were unduly limited, and as the reissue application was filed within 2 years of the original patent issue date, the '639 application, as filed, was clearly a broadening reissue application that included 15 new claims.

On September 19, 2001, the USPTO mailed a filing receipt in the '639 reissue application to counsel, which was received on September 21, 2001 by counsel. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt.

On October 16, 2001, pursuant to 37 CFR 1.11(b), an *Official Gazette (O.G.)* notice informed the public that the '639 application had been filed to reissue the '607 patent.

On October 24, 2001, applicant filed a request in the '639 reissue application, per the above-noted caveat, for correction of the spelling of the inventor's first name to now include the last letter of the given name.

On April 11, 2003, the examiner mailed a Notice of Allowance in the '639 reissue application.

On June 6, 2003, applicant paid the issue fee in the '639 reissue application.

On June 11, 2003, divisional application 10/458,198('198) was filed, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On July 31, 2003, the USPTO mailed a filing receipt in the '198 application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '639 reissue application; it did not apprise applicant that he had filed an application that was both a divisional of the '639 reissue application and a reissue of the '607 patent.

On October 28, 2003, the '639 reissue application was issued as RE38,292 with 18 additional claims over those issued in the original '607 patent.

On November 5, 2003, the USPTO mailed a Notice of Publication of Application that advised applicant that the '198 divisional application would be published on November 6, 2003, as US-2003-0207506-A1.

On November 6, 2003, the '198 divisional application was published as indicated immediately above.

On December 8, 2004, the above-identified divisional application 11/006,684 was filed as a divisional of the '198 non-reissue divisional, using, as permitted by 37 CFR 1.63(d)(iv), the declaration from the '639 grand-parent case, which necessarily also complied with 37 CFR 1.63. As indicated in more detail below, and in the same deficient manner as indicated above when the prior '198 application was filed, applicant did not comply with any of the regulations specific to reissue applications in general, much less to those regulations specific to an application that is both a divisional and a reissue.

On February 10, 2005, the USPTO mailed a filing receipt in this application. The filing receipt included the caveat that applicant was to verify the accuracy of the data presented on the receipt. The filing receipt apprised applicant that he had filed a divisional application of the '198 non-reissue divisional application; it did not apprise applicant that he had filed an application that was both a divisional of the '198 divisional application and was also a reissue of the '607 patent.

On May 19, 2005, the USPTO mailed a Notice of Publication of Application that advised applicant that this application would be published on May 19, 2005, as US-2005010407 A1, and on the same date published this application.

On October 12, 2005, applicant filed a petition under 37 CFR 1.182 requesting that the USPTO convert the above-identified application to an application that is both a divisional and a reissue having the same filing date, from its current status as that of a divisional, but non-reissue, application.

The petition was dismissed in the decision of November 15, 2005.

The instant renewed petition was filed January 17, 2006.

PREVIOUS OPINION

Petitioner complains that the above-identified application "is presently erroneously being treated by the Patent Office as a [non-reissue] divisional of Application no. 10/458,198 which is erroneously being treated as a [non-reissue] divisional application of Reissue Patent No. RE38,292, issued October 28, 2003 ([from] Application No. 09/903,639 [('639)] filed July 13, 2001), which is a reissue application of U.S. Patent No. 5,930,607, issued July 17, 1999." Petitioner notes that under the rationale of In re Bauman, 214 USPQ 585 (CCPA 1982), the original patent No. 5,930,607('607) issued July 17, 1999, which was reissued by the parent '639 application for reissue has been applied against the claims of the above-identified application–and of the prior non reissue '198 divisional application as both are being treated as a non-reissue divisional of the '639 application, as opposed to the '198 application being treated as a divisional application of the '639 application, but which likewise seeks to reissue the original '607 patent, and in turn the instant application must also be treated as a divisional application that likewise seeks to reissue the original '607 patent. Petitioner further asserts that it was applicant's intent to cover additional subject matter not originally claimed by using the instant application papers as a broadening reissue.

Inspection of the record of this application fails to support applicant's contention that the USPTO has "erroneously" treated this application or the parent '198 application as any other than non-reissue divisional applications, and even more importantly, that petitioner has previously considered the instant application as a divisional reissue of the divisional reissue of the original '607 patent, or that petitioner was diligent in seeking to correct his filing errors in not one but several alleged reissue applications, or the alleged error(s) of the USPTO.

Initially, petitioner points to the reissue declaration from the parent reissue application that was present on the filing of the instant application, as evidence of his intent to here file a divisional and reissue application. However, as 37 CFR 1.63(d)(iv) expressly authorizes re-submission of the declaration from a parent application when a divisional application is filed, the presence of the declaration from the parent application did not establish that petitioner was also seeking reissue by way of this divisional application. Rather, any reissue oath must necessarily also satisfy the requirements of 37 CFR 1.63, which applies to all declarations. See 37 CFR 1.175(a). Likewise, the amendment to the first line of the specification was consistent with the filing of a Bauman-type non-reissue, divisional application *per se* from a prior Bauman-type non-reissue divisional application, and did not inform the USPTO, as required by 37 CFR 1.177(a), that this application was but one of a plurality of divisional reissues being sought for a single patent.

Indeed, what was conspicuously absent herein on filing are those indicia of the fact that a reissue has been filed (compare the contents of the '639 reissue application as filed with the contents of either the '198 or instant application as filed), and furthermore, those indicia of the fact that an application that was both a divisional of the '198 application and also a reissue of the '607 patent had been filed, renders petitioner's contentions unpersuasive:

(a) the lack of the written consent of the assignee to the filing of a reissue of any patent as required by 37 CFR 1.172;
(b) the lack of presentation of the instant specification in the form of the printed patent in double column format as required by 37 CFR 1.173(a)(1);
(c) the lack of compliance of the amendments made herein from filing on June 11, 2003, until the filing of the instant petition with 37 CFR 1.173, which governs reissue applications; rather the amendments were made in compliance with 37 CFR 1.121, compare *e.g.*, the amendment to the first line of the specification made on filing with the

amendment to the same part of the specification proffered with the instant petition,
(d) the lack of a notice in the first sentence of the specification stating that more than one reissue application had been filed and their relationship, as required by 37 CFR 1.177(a);
(e) the lack of the presence of each, much less any, of the original patent claims, bearing the same number as in the patent being reissued, per 37 CFR 1.177(b),
(f) the lack of the numbering of any claim herein following the numbering of the highest numbered original patent claim, per 37 CFR 1.177(b).

Accordingly, any contention that the USPTO erred in not recognizing that this application was intended, as now alleged by applicant, to be both a divisional AND a reissue must fall of its own weight.

As to petitioner's belated request for extraordinary relief, consideration of all the circumstances of this case mitigates against the requested conversion. Petitioner is reminded that 37 CFR 1.182 applies only where the other rules are inapplicable. However, 37 CFR 1.182 is not a mechanism for avoiding the requirements of the established rules and procedures. See Hicks v. Costello, 1903 Dec. Comm'r Pat. 123, 125 (1903). As shown by consideration of items (a)-(f) above, petitioner failed to follow the established rules and procedures for filing a divisional reissue application, as opposed to merely filing a non-reissue divisional application when this and the prior '198 application were filed, and was not diligent in seeking to correct his filing error. Furthermore, petitioner appears to overlook that his arguments in the amendment field October 12, 2005, regarding alleged *dicta* in, and the total inapplicability of, Bauman (as well as Conover v. Downs) to the circumstances of this application operate to undermine his contention in the petition that extraordinary relief is warranted herein.

Initially, petitioner's failure to identify the prior '198 application as both a divisional and a reissue, prior to the issuance of the first reissue application, operated to preclude the USPTO from exercising its discretion to then stay the issuance of the first '639 reissue application, or even merge the '639 and *inter alia*, the '198 application or further, even the instant application, pursuant to 37 CFR 1.177(c), assuming for the sake of argument this application and the prior '198 application will be regarded by the USPTO a reissue application.[1] Of further relevance to the request for extraordinary relief is that the USPTO has been denied such discretion due to petitioner's own failure to know and apply the rules of practice applicable to reissue applications in general, and, in particular, the rules of practice specific to reissue applications that are also divisional. Further, such lack or knowledge of, or misapplication of the rules of practice has led to his current alleged predicament.[2] However, such is not an adequate basis for seeking, much less obtaining, extraordinary relief. The extraordinary remedy provisions of the rules of practice should not be considered a panacea for tactical errors in prosecution. See Nitto Chem. Indus.

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Rather, as the alleged failure to comply with the rules and procedures specific to applications for reissue in general, and to the rules specific to divisional applications that are also for reissue is an oversight that could have been avoided by the exercise of reasonable care and diligence, such is not a circumstance beyond the control of petitioner warranting waiver of the rules. See Nitto, supra (Commissioner's refusal to waive requirements of 37 C.F.R. 1.10 in order to grant priority filing date to patent application not arbitrary and capricious, because failure to comply with the requirements of 37 C.F.R. 1.10 is an "avoidable" oversight that could have been prevented by the exercise of ordinary care or diligence, and thus not an extraordinary situation under 37 C.F.R. 1.183); Gustafson v. Strange, 227 USPQ 174 (Comm'r Pats. 1985) (counsel's unawareness of 37 C.F.R. 1.8 not extraordinary situation warranting waiver of a rule). The Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and petitioner is bound by the consequences of those actions or inactions. Link v. Wabash, 370 U.S. 626, 633-34 (1962); Huston v. Ladner, 973 F.2d 1564, 1567, 23 USPQ2d 1910, 1913 (Fed. Cir. 1992);Stevens v. Tamai, 70 USPQ2d 1765 (Fed. Cir. 2004)(court denying priority due to counsel's admitted failure to follow the Rules of Practice of the USPTO). Further, it is well settled that a party's inadvertent failure to comply with the requirements of the rules or procedures before the USPTO is not deemed to be an extraordinary situation that would warrant waiver of the rules or other extraordinary relief. See Honigsbaum v. Lehman, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995). Circumstances resulting from petitioner's, or petitioner's counsel's, failure to exercise due care, or lack of knowledge of, or failure to properly apply, the patent statutes or rules of practice are not, in any event, extraordinary circumstances where the interests of justice require the granting of relief. See In re Tetrafluor, Inc., 17 USPQ2d 1160, 1162 (Comm'r Pats. 1990); In re Bird & Son, Inc., 195 USPQ 586, 588 (Comm'r Pats. 1977).

Moreover, petitioner's lack of diligence in this matter also operates against any favorable treatment of his request. In this regard, the filing receipt mailed July 31, 2003, in the '198 non-reissue divisional apprised petitioner that he had filed a divisional application; it did not apprise petitioner that he had filed an application that was both a divisional of the '639 application and a reissue of the '607 patent. Still further, the Notice of Publication of Application mailed November 5, 2003, advised petitioner that the '198 application would be published on November 6, 2003, as US-2003-0207506-A1. As such, petitioner long ago knew, or should have known, that he had not filed a reissue application, notwithstanding the same indication on the filing receipt, since a reissue application is not subject to pre-grant publication. See 37 CFR 1.211(b), and the first paragraph of MPEP1441.01. Equitable powers should not be invoked to excuse the performance of a condition by a party that has not acted with reasonable, due care and diligence. U.S. v. Lockheed Petroleum Services, 709 F.2d 1472, 1475 (Fed. Cir. 1983). The Office, where it has the power to do so, should not relax the requirements of established practice in order to save an applicant from the consequence of his delay. See Ex Parte Sassin, 1906 Dec. Comm'r. Pat. 205, 206 (Comm'r Pat. 1906) and compare Ziegler v. Baxter v. Natta, 159 USPQ 378, 379 (Comm'r Pat. 1968) and Williams v. The Five Platters, Inc., 510 F.2d 963, 184 USPQ 744 (CCPA 1975). Indeed, petitioner was content with the USPTO treatment of this and several similarly situated non reissue divisional applications until the original patent was applied to reject the claims in these applications claims under the rationale of In re Bauman.

Likewise, the public has had since November 6, 2003, to rely on the fact that the published '198

application was facially not an application for reissue, much less one of a plurality of broadening reissue applications for the '607 patent; it was merely a Bauman-type divisional application. Likewise, the pre-grant publication of this application on April 21, 2005, informed the public that the instant application was a mere Bauman-type divisional, not a reissue. As a general rule, public policy does not favor the restoration to the applicant of something that has been freely dedicated to the public, particularly where the public interest is not protected in some manner, *e.g.*, intervening rights in the case of a reissue patent. See Altoona Publix Theatres v. American Tri-Ergon Corp., 294 U.S. 477, 24 USPQ 308 (1935); Wollensak v. Reiher, 115 U.S. 96 (1885). Here, petitioner dedicated to the public his opportunity to file a plurality of broadening divisional reissue applications that likewise sought to reissue the '607 patent during the pendency of the '639 reissue application. Petitioner fails to advance any explanation for his lack of diligence in this matter, which mitigates away from favorable consideration of the request, for the reasons noted above. Furthermore, petitioner does not explain how the rights of the public will be protected if this non-reissue divisional is now converted to a divisional of the '639 and '198 reissue applications as well as a reissue of the '607 patent, such that the current statutory bar on the claims herein arising under Bauman would be obviated. Rather, the publication of the above-identified application as a non-reissue divisional was proper, and clearly did not put the public on notice that applicant was seeking yet a further broadening reissue herein, which under § 120 would have an effective filing date within the 2 year limit for filing a broadening reissue application per 35 U.S.C. § 251. Rather, that publication only noticed the public on November 6, 2003, that a Bauman type non-reissue continuing [divisional] application had been filed on June 11, 2003. As the court observed in In re Graff, 42 USPQ2d 1471 at (Fed Cir 1997):

> "[T]he interested public is entitled to rely on the absence of a broadening reissue application within two years of grant of the original patent.

Here, the public had notice that a single broadening reissue had been filed within 2 years of the grant of the original patent, but the public did not have notice that yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue filed within 2 years of the patent grant, had also been filed, or that, in turn, yet another broadening divisional reissue claiming § 120 benefit of the prior broadening reissue had also been filed. The public only had notice that a non-reissue divisional application had been filed, when the '198 application was published, and only had notice that a non-reissue divisional application of the '198 application had been filed when the instant application was published. However, the reissue statute balances the purpose of providing the patentee with an opportunity to correct errors of inadequate claim scope, with the public interest in finality and certainty of patent rights. See Wollensak supra, at 100 ("[N]o one should be relieved who has slept upon his rights, and has thus led the public to rely on the implied disclaimer involved in the terms of the original patent.") Not until applicant filed the instant petition and clarifying amendment under 37 CFR 1.177(a) did he begin to seek a true divisional application that was also a reissue of the '609 patent.[3] But see In re Dien, 680 F.2d at 154, 214 USPQ at 14 (court observing that appellant had not thus far really asked for a reissue, and was not now going to get such a reissue approved); In re Fotland, 779 F2d. 31, 228 USPQ 193 (Fed. Cir. 1985) (applicant refused reissue where he had

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[3] While the belated amendment to the first line of the specification constitutes applicant's initial attempt at compliance with 37 CFR 1.177(a), almost 2 years after the publication date, indicated above as item (d), items (a) through (c), (e), and (f) also noted above remain unsatisfied. Petitioner should not assume from the foregoing that even if total compliance with the applicable regulations represented by the aforementioned items (a) through (c), (e), and (f) is hereafter sought, that any renewed petition would be favorably considered.

not met requirements for a "true reissue"within the time limit for filing a claim-broadening reissue). However, petitioner's initial lack of compliance with the applicable rules for filing a divisional and a reissue, in both the parent '198 application as well as herein, and subsequent failure to act diligently to seek the requested conversion of the prior '198 non reissue divisional before the termination of proceedings on the '639 reissue application, coupled with the belated request for conversion herein, weigh against petitioner. Indeed, in filing the instant divisional application, applicant again compounded his same previous filing errors from the '198 application, and further compounded the delay in seeking conversion of both the '198 and instant application.

OPINION RE: RENEWED PETITION

Petitioner requests reconsideration and asserts that (1) contrary to the positions taken above by the USPTO re [lack of] public notice, and [lack of] diligence, the public was put on notice, upon the instant pre grant publication on April 21, 2005, that applicant was continuing to seek to correct errors of inadequate claim scope in the original patent, and (2) petitioner has acted with diligence since at least June 27, 2005 to correct the matter.

As to item (1) above, whatever notice was given to the public by the pre grant publication of this application on April 21, 2005, that notice, by definition, simply could not have been to the effect that there was yet another reissue application seeking to broaden the claims of the original '607 patent. Applications for reissue are simply not subject to pre grant publication. Notwithstanding the total lack of compliance herein with the regulations pertaining to the filing of a reissue application, the pre grant publication of this application simply could not operate to place the public on notice that yet another broadening reissue application of the '607 patent had been filed; it only put the public on notice that a non reissue application had been filed. Petitioner also overlooks that under 37 CFR 1.11(b), the fact of filing of all reissue applications after March 1, 1977,(except for continued prosecution applications (CPA's) filed under 37 CFR 1.53(d)) is announced in the Official Gazette *(O.G.)*, and such thereafter are open to inspection by the general public.[4] The total lack of any *O.G.* notice whatsoever indicating that this application was yet another broadening reissue of the '607 patent further refutes petitioner's contention; regardless of the claimed subject matter presented herein, such was manifestly not placed in a divisional application for reissue of the '607 patent. Accordingly, and further for the reasons of Dien and Fotland, the interested public is here entitled to rely, and to continue to rely, upon the absence of another broadening reissue of the '106 patent in addition to the '639 reissue application, which issued as RE38,292. Petitioner is not unduly prejudiced by this decision in that petitioner has already filed and obtained a broadening reissue of the '607 patent that was expressly filed for the purpose of correcting the error of insufficiently broad claims in the original patent, and to this end the reissue patent contained 18 additional claims.

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[4] The announcement gives interested members of the public an opportunity to submit to the examiner information pertinent to the patentability of the reissue application. The announcement includes the filing date, reissue application and original patent numbers, title, class and subclass, name of the inventor, name of the owner of record, name of the attorney or agent of record, and the Technology Center (TC) to which the reissue application is initially assigned. IFW reissue application files are open to inspection by the general public by way of Public PAIR via the USPTO Internet site. In viewing the images of the files, members of the public will be able to view the entire content of the reissue application file history. To access Public PAIR, a member of the public would go to the USPTO web site at http://www.uspto.gov. However, this application was only publicly viewable upon its pre grant publication.

As to item (2) above, petitioner's contention that reasonable diligence since at least June 29, 2005, has been shown is noted, but upon considering all the circumstances of this case, especially that petitioner has already obtained a broadening reissue of the '607 patent containing 18 additional claims, that contention is not found persuasive. Petitioner had the opportunity during the pendency of that first broadening reissue to present every claim filed herein, as well as every claim presented in non reissue divisional application No. 10/458,198 filed June 11, 2003, for consideration in the first broadening reissue. It was unfortunate, but not beyond petitioner's control, that the application papers for the '198 and instant applications did not comply with the rules applicable to divisional applications that are also for reissue in the same manner that the application papers for the '639 reissue application complied with the rules applicable to reissue applications. It was also unfortunate, but not beyond petitioner's control, that the information on the filing receipts for the '198 and instant applications were not diligently scrutinized and acted upon in the same manner that the filing receipt for the '639 reissue application papers was diligently scrutinized, and acted upon. Further, while petitioner asserts diligence for the last few months, the current predicament arises due to petitioner's protracted failure, since June 11, 2003, when the first, non reissue divisional '198 application was filed, to know and apply the rules applicable to divisional reissues, and the interested public had since then to rely upon the absence of yet another divisional broadening reissue of the'106 patent. Applying the sentiments of the Fotland and Graff courts to this case, petitioner is properly refused the requested relief as petitioner did not meet the requirements for a true broadening divisional reissue[5] during the pendency of the first broadening reissue application, and petitioner compounded his initial filing error when the instant non reissue divisional application was filed on December 8, 2004. It is incumbent upon an applicant to prosecute his invention with continuing diligence and an acute awareness of the statute. See BEC Pressure Controls Corporation v. Dwyer Instruments, Inc., 380 F.Supp. 1397, 1399, 182 USPQ 190, 192 (D.C. N.Ind. 1974). Having failed to diligently take appropriate action to secure additional broadened claim coverage during the prosecution of the original reissue application, much less to secure the proper filing of copending divisional applications that were also applications for reissue of the original '106 patent, petitioner cannot now be heard to complain as the window for presentation of such claims and reissue applications has long been closed. See Bauman at 590 (holding that a non reissue continuation of a prior reissue application is entitled to the benefit of the filing date of the prior reissue application under 35 U.S.C. § 120). That is, as petitioner did not really ask for any additional broadening divisional reissue application(s) during the period from June 11, 2003, to June 29, 2005, the instant request comes far too late. See Dien, supra, see also Wollensak, supra.

DECISION

For the reasons given above, and balancing of the interests of the patentee with that of the public, that balance will be found in favor of the public interest in the finality and certainty of claim scope by refusing the requested relief herein as it has been refused in the '198

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[5] The original '607 patent issued July 27, 1999. Pursuant to 35 U.S.C. § 251, any broadening reissue had to be filed on or before July 27, 2001, or be filed, *ab initio* as a broadening reissue that itself claimed benefit under 35 U.S.C. § 120 of a broadening reissue filed on or before July 27, 2001. The '639 broadening reissue was filed July 13, 2001. The first non reissue divisional, the '198 application, filed June 11, 2003, was thus copending with the '639 reissue which issued October 28, 2003. Petitioner had ample to time correct his non reissue filing error to avoid the use of his original patent issued July 27, 1999 as a reference against any claim where that claim, as here, is found in a non reissue divisional application that is limited by 35 U.S.C. §120 to a filing date of June 11, 2003.

application. The petition is **denied.** This application will continue to be treated by the USPTO as a non reissue division application.

This decision may be considered a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002. The USPTO will not further consider or reconsider this matter.

This application is being referenced to the Technology Center for continued treatment as a non-reissue divisional application.

Telephone inquiries related to this communication should be directed to Petitions Examiner Brian Hearn at (571) 272-3217.

Charles Pearson, Director
Office of Petitions

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
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901 NEW YORK AVENUE, NW
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In re Application of	:
Peter Virgil Fisher et al	:
Serial No.: 11/006,691	: PETITION DECISION
Filed: December 8, 2004	:
Attorney Docket No.: 07414.0040-01000	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed originally filed December 8, 2004 and refiled . Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

In re Application of :
Kimihiro **ANDO** :
Application No. 11/006,715 :
Filed: December 8, 2004 :
Attorney Docket No. **262976US0X** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 26, 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 15, 2006. An advisory action before the filing of an Appeal Brief was mailed on May 14, 2007, which extended the shortened statutory period for reply to four (4) months from the mail date of the final office action. Accordingly, the application became abandoned on March 16, 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. 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 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) with submission required by 37 CFR 1.114 and fee of $790; (2) the petition fee of $1500, (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice,

62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The file record discloses that a Power of Attorney was filed on June 21, 2007. However, the power was rejected because it did not include a certification under 37 CFR 3.73(b).

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

This application is being referred to the Technology Center Art Unit 1774 for processing of the RCE and for appropriate action by the examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **MARGARET S. MILLIKIN**
2790 COLUMBUS ROAD, BLDG. 20-0
GRANVILLE, OHIO 43023-1200

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Kimihiro Ando
Application No. 11/006,715
Filed: December 8, 2004
Attorney Docket No. 25858A

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

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

In the amendment, petitioner states that "Applicant is submitting herewith a Request for Continued Examination and a Petition to Revive the above-identified application". However, since there is no actual Request for Continued Examination (RCE) form, the mention of such will be construed as meaning that petitioner requests an RCE. Therefore, the RCE fee of $810 will be charged to petitioner's deposit account, as authorized.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an RCE along with the $810 fee and the submission under 37 CFR 1.114; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1794 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Lapstun et al.	:	
Application No. 11/006,734	:	ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. XMB053US	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 24, 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 requisite fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: David A. Matthews	: DECISION ON REQUEST FOR
Patent Number	: 7665031	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,751	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **627** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 05/18/2010

Applicant : David A. Matthews
Patent Number : 7665031
Issue Date : 02/16/2010
Application No : 11/006,751
Filed : 12/08/2004

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

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

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Joon-Bo Choi et al	:	
Application No. 11/006,752	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q85176	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 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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OFFICE OF PETITIONS

In re Application of	:	
Joo-Bo Choi et al	:	
Application No. 11/006,753	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q85175	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 10, 2008 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 2618 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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2100 PENNSYLVANIA AVENUE, N.W.,
SUITE 800
WASHINGTON DC 20037

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OFFICE OF PETITIONS

In re Application of	:	
Joon-Bo Choi et al	:	
Application No. 11/006,767	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q85177	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on April 10, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of Kia Silverbrook Application No. 11/006,787 Filed: December 8, 2004 Attorney Docket No. BEA011US	DECISION ON PETITION UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed February 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. The reference to the prior-filed nonprovisional applications was included in the first sentence of the specification following the title as required by the rules.

Since an ambiguous claim for priority under 37 CFR § 1.78(a)(3) was included in the first sentence of the specification on filing and the Office noted the claim for priority, no petition will be required to accept the late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the the USPTO did not note the ambiguous claim for priority to the prior-filed applications set forth in the oath/declaration, transmittal letter, or specification submitted with the application, a petition would be required to accept the late claim for priority under 37 CFR § 1.78(a)(3).[1] In the present case, the Office noted the claim for priority to the prior-filed applications in the specification filed with the application, as shown by their inclusion on the filing receipt.

[1] *Note* MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the $1,370 petition fee submitted is unnecessary and will be refunded to petitioner by Treasury Check, in due course.

This application is being referred to Technology Center Art Unit 2853, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Any questions concerning this decision on petition may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

54267 US

SN# 11006802

78003 / 291567

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JUN 13 2003

OFFICE OF PETITIONS

Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean, VA 22102

In re Application of
Mark Zoller, Xu Hong, Lena Staszewski, Bryan Moyer Alexy Pronin, Jon Elliot Adler, Guy Servant and Nicholas Callamaras
Application No.10/189,507
Filed: July 8, 2002
Attorney Docket No. P 0291567
Title of Invention: EXPRESSION OF FUNCTIONAL HUMAN OLFACTORY CYCLIC NUCLEOTIDE GATED (CNG) CHANNEL IN RECOMBINANT HOST CELLS AND USE THEREOF IN CELL BASED ASSAYS TO IDENTIFY SMELL MODULATORS

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

#54267US

This is in response to the renewed petition filed June 5, 2003 under 37 CFR. §1.47(a).

Petitioner has shown that the non-signing inventor, Adler, has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition indicates the application papers were sent to the inventor's last known address via Air Borne Express. Discussions with inventor Adler's representative confirmed a refusal to participate in the above-identified application . The non-signing inventor's failure to execute the application papers sufficiently establishes that he refuses to execute the application papers.

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

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

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OIPE IAP82
OCT 14 2005
PATENT & TRADEMARK OFFICE

Jon Elliot Adler
1099 Turquoise Street, Apt 15
San Diego, CA 92109

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JUN 13 2003

OFFICE OF PETITIONS

In re Application of
Mark Zoller, Xu Hong, Lena Staszewski, Bryan Moyer Alexy Pronin, Jon Elliot Adler, Guy Servant and Nicholas Callamaras
Application No.10/189,507
Filed: July 8, 2002
Attorney Docket No. P 0291567
Title of Invention: EXPRESSION OF FUNCTIONAL HUMAN OLFACTORY CYCLIC NUCLEOTIDE GATED (CNG) CHANNEL IN RECOMBINANT HOST CELLS AND USE THEREOF IN CELL BASED ASSAYS TO IDENTIFY SMELL MODULATORS

: LETTER

Dear Mr. Adler:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (703) 306-0251. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Robin L. Teskin
Pillsbury Winthrop LLP
Intellectual Property Group
1600 Tysons Boulevard
McLean VA 22102

cc: Marilyn Mika Spencer
2044 First Avenue, Suite 200
San Diego, CA 92101

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

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MAR 2 8 2006

OFFICE OF PETITIONS

In re Application of :
Shuhei Yada et al. :
Application No. 11/006,803 : ON PETITION
Filed: December 8, 2004 :
Attorney Docket No. 1417-486 :

This is a decision on the petition filed March 8, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before November 1, 2005 as was required by the Notice of Allowance mailed August 1, 2005. This application therefore became abandoned on November 2, 2005. Accordingly, a Notice of Abandonment was mailed February 6, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that it was not received. In support, petitioner indicates that a search of the file jacket revealed that the Notice was not received and submits copies of pages from the docketing system, wherein receipt of the Notice of Allowance would have been entered, had it been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance was never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 1621 for a remailing of the Notice of Allowance and Notice of Allowability.

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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C/O DELIZIO GILLIAM, PLLC
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SUITE 1000-312
CYPRESS TX 77433

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AUG 26 2009

OFFICE OF PETITIONS

In re Application of	:	
Franz Lechner et al	:	
Application No. 11/006,805	:	DECISION ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. 100.117US2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed April 21, 2008, is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3714 for appropriate action by the Examiner in the normal course of business on the reply received June 26, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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Ronald D. Trice
PMB 138
2101 Crystal Plaza Arcade
Arlington VA 22202-4600

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AUG 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Kelly, et al.	:	
Application No. 11/006,807	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. ZXL-HUL-001NP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 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 C. Trice on behalf of all attorneys 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 Stephen M. Kelly at the address indicated below.

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

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

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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Arlington VA 22202-4600

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OFFICE OF PETITIONS

In re Application of	:	
Kelly, et al.	:	
Application No. 11/006,807	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. ZXL-HUL-001NP	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 29, 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 C. Trice on behalf of all attorneys 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 Stephen M. Kelly at the address indicated below.

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

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

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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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/006,807	12/08/2004	Stephen M. Kelly	ZLX-HUL-001NP

CONFIRMATION NO. 5195

OC000000019986484

OC000000019986484

Ronald D. Trice
PMB 138
2101 Crystal Plaza Arcade
Arlington, VA 22202-4600

Date Mailed: 08/11/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/29/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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AUG 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Lechner et al.	:	
Application No. 11/006,810	:	ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. 100.117US1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 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 non-final Office action mailed, August 5, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 6, 2008. A Notice of Abandonment was mailed February 27, 2009.

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

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

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

This application is being referred to Technology Center 3714 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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WASHINGTON DC 20001-5303

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OFFICE OF PETITIONS

In re Application of :
KONDRATALV et al. :
Application No. 11/006,811 : ON PETITION
Filed: 12/08/2004 :
Attorney Docket No. KONDRATIEV2 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 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 final Office action, mailed February 15, 2008, which set a three-month extendable period for reply. No timely extensions of the period for response were obtained under 37 CFR 1.136(a). Accordingly, the application became abandoned on May 16, 2008. The Office mailed a Notice of Abandonment on October 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee; and (3) a proper statement of unintentional delay.

The Office notes that 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). As the $525.00 extension of time fee submitted with the petition on August 22, 2008, was filed after the maximum extendable period for reply, this fee is unnecessary and will be refunded.

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. 12/191,782.

Telephone Inquiries concerning 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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WASHINGTON DC 20006

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Hanselmann, William
Appl. No.: 11/006,820
Filing Date: December 8, 2004
Title: CHOCOLATE PRODUCTS AND INGREDIENTS AND METHODS FOR PRODUCING NOVEL OIL-IN-WATER SUSPENSIONS
Attorney Docket No.: 78972.0036
Pub. No.: US 2006/0121164 A1
Pub. Date: June 8, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 8, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication does not contain blank lines in paragraph [0042].

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The missing blank lines in paragraph [0042] separating the five different recipes are not material Office errors under 37 CFR 1.221. The error is not a material Office error because the error does not affect the understanding of the publication. The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

In addition, it is suggested that the applicant use more pronounced indicators to separate text than blank lines. Blank lines are difficult to read and to electronically reproduce by digital imaging and optical character recognition. Applicants have been advised to file applications having cleaner and larger text with sufficient clarity and contrast to permit reproduction, such as electronic reproduction by digital imaging and optical character recognition, which will avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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United States Patent and Trademark Office
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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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OFFICE OF PETITIONS

In re Application of	:	
Ruey Yu et al.	:	
Application No. 11/006,822	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 59210.000049	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed July 6, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a signed Declaration under 37 C.F.R 1.102(c)(1) stating that applicants are over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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 1618 for action on the merits commensurate with this decision.

for

David Bucci
Petitions Examiner
Office of Petitions

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Maccord, Mason, PLLC
300 N. Greene Street, Suite 1600
P.O. Box 2974
Greensboro, NC 27402

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OFFICE OF PETITIONS

In re Application of	:	
Guy R. Beretich, Jr. et al.	:	
Application No. 11/006,835	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. 7401-009	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 17, 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 A. MacCord, Jr. and all attorneys/agents of record has been revoked by the assignee of the patent application on February 17, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Triangle Patents, PLLC
P.O. Box 28539
Raleigh, NC 27611-8539

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-27-05

TO SPE OF : ART UNIT 2881

SUBJECT : Request for Certificate of Correction on Patent No.: 6940079 / 11006840

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.

EVA JAMES

Claims (Should Claim 1 be replaced? Thanks

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9309 ext. 116

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:

Yes, claim 1 should be replaced by the claim indicated in the corrected version.

SPE

2881
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 04/21/2010

Applicant	: Mark Yarvis	: DECISION ON REQUEST FOR
Patent Number	: 7596152	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,843	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1266** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

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SEP 0 8 2008

In re Application of	:	
Steven W. Johnston et al.	:	
Application No. 11/006,844	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 042390.P20679	:	

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 24, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 24, 2007. Accordingly, the date of abandonment of this application is November 25, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and the publication fee of $300.00, (2) the petition fee of $1540.00; 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 the Office of Data Management for processing into a patent.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Daniel G. Willis, Ron W. Phillips and Benjamin R. Hein
Application No.11/006,847
Filed: December 7, 2004
Attorney Docket No. 925-67412-02
Title of Invention: Drop Down Door Support System

DECISION GRANTING STATUS UNDER 37 CFR 1.47(A)

This is in response to the petition under 37 CFR 1.47(a) filed December 7, 2004.

The petition is GRANTED.

Petitioner has shown that the non-signing inventors Phillips and Hein have refused to join in the filing of the above-identified application after having been presented with the application papers. The petition and declaration of Daniel Willis attest a copy of the application was sent to non-signing inventors' last known addresses. Inventor Phillips orally refused and inventor Hein refused in writing to execute the application papers.

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

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

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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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Benjamin R. Hein
3711 S.E. Franklin Street
Portland, Oregon 97202

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Daniel G. Willis, Ron W. Phillips and Benjamin R. Hein
Application No.11/006,847
Filed: December 7, 2004
Attorney Docket No. 925-67412-02
Title of Invention: Drop Down Door Support System

LETTER

Dear Mr. Hein:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

JEFFREY B. HAENDLER
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

UNITED STATES PATENT AND TRADEMARK OFFICE

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Ron W. Phillips
36230 Durbarko Road
Sandy, Oregon 97055

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FEB 03 2005

OFFICE OF PETITIONS

In re Application of
Daniel G. Willis, Ron W. Phillips and Benjamin R. Hein
Application No.11/006,847
Filed: December 7, 2004
Attorney Docket No. 925-67412-02
Title of Invention: Drop Down Door Support System

LETTER

Dear Mr. Phillips:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

JEFFREY B. HAENDLER
KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND OR 97204

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SUNNYVALE, CA 94089

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of Kiran Kamity, et. al. Application No. 11/006,875 Filed: December 7, 2004 Attorney Docket No. 67272-8068.US01	: : : : :	ON PETITION

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

The application became abandoned for failure to file a timely reply to the Notice of Allowance/Notice of Allowability mailed August 25, 2008. A Notice of Abandonment was mailed on December 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,510 for payment of the issue fee and eight sheets of replacement drawings containing Figures 1-8; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $3 for one advanced order soft copy and a Change of Correspondence Address filed on January 23, 2009, which has been accepted and made of record.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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IBM CORPORATION
3039 CORNWALLIS RD.
DEPT. T81 / B503, PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

Mail Date: 04/20/2010

Applicant	: Ian Robinson	: DECISION ON REQUEST FOR
Patent Number	: 7668833	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,877	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1084** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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MICHAEL D. STEIN
WOODCOCK WASHBURN LLP
46TH FLOOR
ONE LIBERTY PLACE
PHILADELPHIA, PA 19103

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AUG 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Sheth et al.	:	
Application No. 11/006,939	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. IVPD-0061	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 3, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/436,401, filed December 24, 2002, 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 intermediate nonprovisional application was filed within twelve months of the filing date of the above-listed, prior-filed provisional application 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 April 3, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/436,401.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/006,939	12/08/2004	2616	565	IVPD-0061	9	1	1

CONFIRMATION NO. 5179
CORRECTED FILING RECEIPT
OC000000020158979
OC000000020158979

Michael D. Stein
WOODCOCK WASHBURN LLP
46th Floor
One Liberty Place
Philadêlphia, PA 19103

Date Mailed: 08/23/2006

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

Applicant(s)

Samir Satish Sheth, Plano, TX;
Brian Royal, Garland, TX;
Richard Thomas Hughey, Dallas, TX;
Jeffrey Lloyd Cox, Fairview, TX;
Tom Moore, Dallas, TX;
Kelly Hawkins, Plano, TX;

Power of Attorney: The patent practitioners associated with Customer Number **23377**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/746,841 12/24/2003
which claims benefit of 60/436,401 12/24/2002
This application 11/006,939
claims benefit of 60/608,198 09/08/2004

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/006,939

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Apparatus and method for fibre channel distance extension embedded within an optical transport system

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

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

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

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

NOT GRANTED

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

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Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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JUN 02 2008

OFFICE OF PETITIONS

In re Application of	:	
Chandrashekhar Prabhakar Pathak	:	
Application No. 11/006,946	:	DECISION ON PETITION
Filed: December 7, 2004	:	TO WITHDRAW
Attorney Docket No. 297912004500	:	FROM RECORD
	:	

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 22, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Vincent J. Belusko on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R. 3.71. Accordingly, all correspondence will be mailed to the applicant since no assignee has properly intervened in this application. A courtesy copy of this decision will be mailed to address noted on the request to withdraw. If this firm desires to receive future correspondence regarding this application, the proper power of attorney documents must be submitted.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Todd W. Wight
Rutan & Tucker, LLP
611 Anton Boulevard
Suite 1400
Athens, TX 75751

cc: Chandrashekhar Prabhakar Pathak
15815 South Lakewood Parkway
West - #2062
Phoenix, AZ 85048

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/006,946	12/07/2004	Chandrashekhar Prabhakar Pathak	297912004500

CONFIRMATION NO. 8163

POWER OF ATTORNEY NOTICE

25224
MORRISON & FOERSTER, LLP
555 WEST FIFTH STREET
SUITE 3500
LOS ANGELES, CA 90013-1024

OC000000030238458

Date Mailed: 06/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/22/2008.

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

/kainabinet/

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

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HONEYWELL/FOGG
Patent Services
101 Columbia Road
P.O Box 2245
Morristown, NJ 07962-2245

Mail Date: 04/20/2010

Applicant	: Wayne A. Soehren	: DECISION ON REQUEST FOR
Patent Number	: 7668655	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/006,985	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/01/2010

Applicant	: John Toebes	: DECISION ON REQUEST FOR
Patent Number	: 7644211	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/006,989	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION

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

The patent term adjustment has been determined to be **162** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NOV - 2 2005

LEON I. EDELSON, ESQ.
LEVENFELD PEARLSTEIN
P.O. BOX 0212
CHICAGO, IL 60690-0212

In re application of	:	**DECISION ON PETITION**
Wolfgang Raffler, et al.	:	**TO MAKE SPECIAL**
Application No. 11/007,006	:	**(ENVIRONMENTAL QUALITY)**
Filed: December 8, 2004	:	
For: ELECTROMAGNETIC RELEASE	:	

This is a decision on the petition submitted on December 8, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure.

37 CFR 1.102 (c) states "A petition to make an application special may be filed without a fee if the basis for the petition is the applicant's age or health or that the invention will materially enhance the quality of the environment or materially contribute to the development or conservation of energy resources.". The applicants' invention is directed to a safety device for use with elevator devices. The applicants' invention does not appear to fall under the "enhance the quality of the environment" or "materially contribute to the development or conservation of energy resources". Therefore, the basis for granting the applicants' Petition to Make Special under 37 CFR 1.102(c) is unclear.

A grantable petition to make an application special under 37 C. F. R. 1.102(c), MPEP 708.02, Section V for an invention which materially enhances the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining elements-air, water and soil, must be accompanied by affidavits or declaration under 37 CFR 1.102 by applicants or their attorney explaining how the invention contributes to the maintenance or restoration of one of these life sustaining elements.

A grantable petition to make an application special under 37 C.F.R. 1.102 (c), MPEP 708.02, Section VI for an invention which materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources must be accompanied by statements under 37 CFR 1.102 by applicant or his attorney explaining how the invention materially contributes to category (A) or (B) set forth above.

The petition includes a statement by inventor Wolfgang Raffler that the instant invention eliminates certain hazardous conditions that pertain to the physical mechanism currently in use when operating a vehicle lift.

These statements are insufficient to grant a petition 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 V: Environmental Quality. In this regard, Wolfgang Raffler's statements are lacking in that they fail to explain, and establish for the record, how applicants' invention contributes to the maintenance or restoration of the basic life-sustaining elements-air, water and soil. These statements are also insufficient to grant a petition 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 VI: Energy. In this regard, Wolfgang Raffler's statements do not relate to the discovery or development of energy resources or the more efficient utilization and conservation of energy resources as required under Section VI: Energy.

For the reasons stated above, the petition to make special under 37 CFR 1.102 (c) is **DISMISSED.**

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicants should promptly submit a renewed petition to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/bkg 10/21/05

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OFFICE OF PETITIONS

In re Application of	:	
Ignacio Esteras DUCE et al.	:	DECISION ON PETITIONS
Application No. 11/007,027	:	UNDER 37 CFR 1.183 AND
Filed: December 8, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00604WOUS	:	

This is a decision on the petition under 37 CFR 1.183, filed March 20, 2006, requesting waiver of 37 CFR 1.78(a)(3) as that rule operates in conjunction with 37 CFR 1.17(t), and a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP2003/007598, filed July 14, 2003, as set forth in the accompanying Application Data Sheet.

The petition under 37 CFR 1.183 is **DISMISSED** as moot in view of the request filed April 28, 2006, withdrawing the petition to waive the surcharge fee requirement of 37 CFR 1.78(a)(3). No fee has been assessed to petitioner's deposit account for the petition under 37 CFR 1.183.

The petition under 37 CFR 1.78(a)(3) 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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment filed April 28, 2006 claims priority to PCT Application No. PCT/EP2003/007598. However, the examiner has indicated that the proposed amendment would not be entered. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must now submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Ignacio Esteras DUCE et al.	:	DECISION ON PETITION
Application No. 11/007,027	:	UNDER 37 CFR 1.78(a)(3)
Filed: December 8, 2004	:	
Attorney Docket No. 2002P00604WOUS	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed February 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/07598, filed July 14, 2003, set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/007598).

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

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

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

benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 3742 for appropriate action on the amendment filed February 26, 2007, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/007,027	12/08/2004	3742	1300	2002P00604WOUS	14	2

CONFIRMATION NO. 7739

CORRECTED FILING RECEIPT

OC000000022766757

46726
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INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 03/06/2007

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

Applicant(s)

Ignacio Esteras Duce, Zaragoza, SPAIN;
Fernando Monterde Aznar, Zaragoza, SPAIN;
Julio Rivera Peman, Zaragoza, SPAIN;

Assignment For Published Patent Application

BSH Balay S.A., Zaragoza, SPAIN

Power of Attorney: The patent practitioners associated with Customer Number **000046726**.

Domestic Priority data as claimed by applicant

This application is a CON of PCT/EP03/07598 07/14/2003

Foreign Applications

SPAIN P200201902 08/01/2002

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 US11/007,027

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

INDUCTION HOT PLATE COMPRISING HEATING REGIONS HAVING A RECONFIGURABLE STRUCTURE, AND METHOD FOR INCREASING THE MAXIMUM POWER OF SAID HEATING REGIONS

Preliminary Class

219

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

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

NOT GRANTED

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

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OFFICE OF PETITIONS

In re Application of	:	
Ignacio Esteras Duce et al.	:	
Application No. 11/007,027	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2002P00604WOUS	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 26, 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 June 9, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application will remain with the Office of Petitions for consideration of the concurrently filed renewed petition under 37 CFR 1.78(a)(3).

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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BUHLER ASSOCIATES
BUHLER, KIRK A.
1101 CALIFORNIA AVE.
SUITE 208
CORONA CA 92881

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In re Application of	:	
PARSLEY, Andrew J.	:	
Application No. 11/007,040	:	DECISION ON PETITION
Filed: December 08, 2004	:	TO WITHDRAW
Attorney Docket No. **AP02-01U**	:	FROM RECORD
	:	

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 02, 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 Kirk A. Buhler on behalf of all attorneys of record who are associated with customer No. 37038. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Andrew J. Parsley at the address indicated below.

There is an outstanding Office action mailed July 29, 2008 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ANDREW J. PARSLEY**
P.O. BOX 2982
CORONA, CA 92878

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS MN 55432-9924

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AUG 08 2008

In re Application of	:	
Eckhard ALT et al.	:	
Application No. 11/007,046	:	DECISION ON PETITION
Filed: December 07, 2004	:	
Attorney Docket No. P0028935.00	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 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 March 09, 2007, which set a shortened statutory period for reply of three (3) months. 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 June 12, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of March 09, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3762 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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

In re Application of :
Ahmad Bahai :
Application No. 11/007,057 : ON PETITION
Filed: December 7, 2004 :
Attorney Docket No.08211/0201497-US0/P06102

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed September 23, 2005.

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

The above-identified application became abandoned for failure to reply to Notice to File Missing Parts of Nonprovisional Application mailed January 7, 2005, which set a shortened period for reply of two (2) from its mailing date. No response was received within the allowable period, and the application became abandoned on March 8, 2005. A Notice of Abandonment was mailed on September 15, 2005.

Petitioner argues that a reply the Notice to File Missing Parts of Nonprovisional Application was transmitted via facsimile on April 7, 2005, and received by the Office. As evidence of the same, petitioner provides a copy of the certificate of transmission under 37 CFR 1.8 noting that a response was sent on April 7, 2005, and a copy of the transmission sheet indicating that 16 pages were transmitted to a USPTO facsimile. Office records also indicate that the assignment recordation fee was received on April 7, 2005, further evidencing that the USPTO received the response allegedly sent on April 7, 2005.

Based on the aforementioned, it appears that the application was improperly held abandoned as a proper response was transmitted prior to expiration of the statutory period for reply. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded to the Office of Initial Patent Examination for further processing.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DIGIMARC CORPORATION
9405 SW GEMINI DRIVE
BEAVERTON, OR 97008

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JAN 30 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bentley Bloomberg, et al. :
Application No.: 11/007,058 :
Filed: December 7, 2004 :
Attorney Docket No.: P1050D :

This is a decision on the petition, filed January 28, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 11, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 1775 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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FOLEY & LARDNER LLP
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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OFFICE OF PETITIONS

In re Application of :
Michael **GALPERIN** :
Application No. 11/007,062 :
Filed: December 7, 2004 :
Attorney Docket No. **38297-0003CIP** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

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

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue on or before June 26, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed March 26, 2008. Accordingly, the date of abandonment of this application is June 27, 2008.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Michael Galperin 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. Galperin 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 the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition 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, the publication fee of $300, (2) the petition fee of $770; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: **MICHAEL GALPERIN**
1672 GIL WAY
VISTA, CA 92084

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CYPRESS SEMICONDUCTOR CORPORATION
198 CHAMPION COURT
SAN JOSE, CA 95134-1709

Mail Date: 04/21/2010

Applicant	: David G. Wright	: DECISION ON REQUEST FOR
Patent Number	: 7629963	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,072	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1128** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROBERT RYAN MORISHITA
MORISHITA LAW FIRM, LLC
3800 HOWARD HUGHES PKWY,
SUITE 850
LAS VEGAS NV 89169

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OFFICE OF PETITIONS

In re Application of	:	
Odom et al.	:	
Application No. 11/007,108	:	ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. KARAWAY 04-01	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 26, 2006 to make the above-identified application special. The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

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 inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 3713 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions

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BARNES & THORNBURG, LLP
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CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of	:	
Shawn A. Leu	:	
Application No. 11/007,111	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. 926512-101082	:	FROM RECORD
	:	

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 reason set forth in the request, "file responsibility was transferred to the attorneys/agents associated with customer number 24628", does not meet any of the conditions set forth in 37 CFR 10.40.

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

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The power of attorney filed on February 13, 2006 does not include one of the above two options.

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

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

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

cc: HUSCH BLACKWELL SANDERS, LLP
WELSH & KATZ
120 S. RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

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WEST PALM BEACH FL 33402 -3188

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OFFICE OF PETITIONS

In re Application of

Bradley Gotfried, et al. :

Application No. 11/007,136

: DECISION ON PETITION

Filed: December 8, 2004

:

Attorney Docket No. 6686-90-1

This is a decision on the petition under 37 CFR 1.137(b), filed May 11, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 4, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on January 5, 2006.

The continuing application 11/278,586, filed April 4, 2006, is noted and made of record.

The request for an extension of time within the third month, filed May 11, 2006, is noted but cannot be granted as the request was made outside the maximum statutory period for reply and the application was already in an abandoned status. The amount of $510.00 will be refunded, in due course.

The application is being forwarded to Technology Center 2800, GAU 2876 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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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

Applicant	: John A.T. Young	: DECISION ON REQUEST FOR
Patent Number	: 7598072	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,145	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **267** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 05/21/2010

Applicant	: Jeong-Wook Seo	: DECISION ON REQUEST FOR
Patent Number	: 7650169	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/007,170	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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128 NORTH PITT STREET, 2ND FLOOR
ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
WOOD, Thomas J.	:	
Application No. 11/007,218	:	DECISION ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. IMED-0009-CPB	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 27, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 14, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 14, 2006 . Accordingly, the date of abandonment of this application is September 15, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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 Monica Graves at (571) 272-7253.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Keisuke Miyagawa	:	
Application No. 11/007,281	:	DECISION GRANTING PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7449	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 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 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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Paper No. 062105

Scott W. Kelley
KELLY LOWRY & KELLEY, LLP
6320 Canoga Avenue, Suite 1650
Woodland Hills, CA 91367

JUN 27 2005

In re Application of:
Maurice E. Lindsey
Serial No.: 11/007,357
Filed: December 07, 2004
Attorney Docket No.: **405054338 US**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed December 07, 2004, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicant stating the Maurice E. Lindsey is sixty-five (65) years of age or more.

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

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ALEXANDRIA VA 22313-1404

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OFFICE OF PETITIONS

In re Application of :
Jean-Louis BOCQUET et al. :
Application No. 11/007,367 : DECISION ON PETITION
Filed: December 09, 2004 :
Attorney Docket No. **033818-137** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply to the non-responsive notice, mailed April 05, 2007, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 08, 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/078,770 filed April 04, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050.00 extension of time fee submitted with the petition on April 04, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORANGEBURG NY 10962-2100

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OFFICE OF PETITIONS

In re Application of	:	
John A. Taylor	:	
Application No. 11/007,368	:	DECISION ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. J656-009US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file corrected drawings on or before December 8, 2006, as required by the examiner's statement accompanying the Notice of Allowability, mailed September 8, 2006. Accordingly, the date of abandonment of this application is December 9, 2006.

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 $750.00; and (3) a proper statement of unintentional delay.

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

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

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

HAYES SOLOWAY P.C.
3450 E. SUNRISE DRIVE, SUITE 140
TUCSON AZ 85718

In re Application of :
Nagai, et al. : DECISION ON PETITION
Application No. 11/007,425 :
Filed: December 8, 2004 :
Atty. Dkt. No.: NEC 04151 :

This decision is in response to the petition to under 37 CFR 1.137(a) filed May 9, 2008. This matter is sua sponte being treated under 37 CFR 1.181 as a petition to withdraw the holding of abandonment.

This application was held abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 18, 2007. The non-final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

DECISION UNDER 37 CFR 1.181

Petitioner argues that a proper response to the non-final Office action was timely submitted on January 18, 2007. Petitioner has included a copy of a postcard date-stamped January 24, 2008 acknowledging receipt of a four page amendment. Petitioner has also provided a copy of the complete reply referenced on the postcard. The copy of the reply bears a certificate of mailing date of January 18, 2008 in accordance with 37 CFR 1.8.

Review of Office records reveals that the response received at the USPTO on January 24, 2008, while intended for instant application did not include the correct application serial number. The response improperly cited U.S. App. No. 11/**077**,425. The response contained a certificate of mailing date of January 18, 2008 in accordance with 37 CFR 1.8. As a result of applicants' error, the application was held abandoned.

Correspondence directed to the Patent and Trademark Office concerning a previously filed application for a patent must identify the application number and filing date assigned to that application by the Office. See, 37 CFR 1.5(a). In the above-referenced application, applicant failed to correctly identify the application by citing an incorrect application number in the

response. The Office elects, in this instance, to treat applicant's error as a correctable minor error as permitted under MPEP 502. However, applicants are reminded that minor errors, such as occurred in the instant application, are to be avoided in the future by the careful review of correspondence prior to submission to the Office.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby GRANTED.

The Notice of Abandonment is hereby VACATED and the holding of abandonment is WITHDRAWN.

DECISION UNDER 37 CFR 1.137(a)

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

However, in view of the withdrawal of the holding of abandonment, the petition under 37 CFR 1.137(a) is DISMISSED AS MOOT.

No fee is due in connection with this matter. Petitioner may request a refund of the previously submitted $510.00 petition fee by writing to the Finance Office, Refund Section. A copy of this decision should accompany any request for refund.

This application is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

HOWREY LLP-CA
C/O IP DOCKETING DEPARTMENT
2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH, VA 22042-2924

Mail Date: 04/21/2010

Applicant	: Risha Bond	: DECISION ON REQUEST FOR
Patent Number	: 7642077	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,437	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **383** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SQUIRE, SANDERS & DEMPSEY L.L.P.
8000 TOWERS CRESCENT DRIVE
14TH FLOOR
VIENNA VA 22182-6212

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	:	
Yamamoto, et al.	:	
Application No. 11/007,446	:	DECISION
Filed/Deposited: 9 December, 2004	:	
Attorney Docket No. 58546.00018	:	

This is a decision on the petition filed on 25 November, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

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

As to the Request to Withdraw
the Holding of Abandonment

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

BACKGROUND

The record reflects as follows:

The Examiner mailed a non-final Office action on 29 April, 2008, with reply due absent extension of time on or before 29 July, 2008.

The application would have gone abandoned by operation of law after midnight 29 July, 2008.

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 25 November, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, and averred therein timely reply in the form of an amendment filed on 28 July, 2008, and provided in support thereof a date-stamped ("JUL 28 2008") receipt card and a copy of the reply in the form of an amendment.

The guidance in the Commentary at (*see*: MPEP §711.03(c)(I)) to satisfy the mandated showings:

***

37 C.F.R. §1.10(c) through §1.10(e) and §1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 C.F.R. §1.10(c), (d), (e), or (g) (see MPEP §513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP §503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. 1.8(b) and MPEP §512. As stated in 37 C.F.R. §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. §1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the

private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP §512. [1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office 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).

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.

It appears that the petition is moot.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.181 is **dismissed as moot**, and the petition fee is refunded via Treasury check in due course. Should Petitioner later find that the fee has not been refunded, Petitioner should make request of the Office of Finance and provide with the request a copy of this decision.

---

[1] *See*: MPEP §711.03(c) (I)(B).

[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).

The instant application is released to the Technology Center/AU 2431 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[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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100210

DATE : February 10, 2010

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction on Patent No.: 7595331

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

4/29/10

Patent No. :7595331
Ser. No. :11/007484
Inventor(s) :Aloke K. Dutta
Issued : 9/29/09
Title : IMAGE DISPLAY SYSTEM , IMAGE PROCESSING SYSTEM, AND VIDEO GAME SYSTEM
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 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 1.17(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

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

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

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

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

By fax: (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.

A certificate of correction will be issued to correct the remaining errors noted in your request.

Henry Randall
Decisions & Certificates
of Correction Branch
(703) 756-1571

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE, 15TH FLOOR
NEW YORK, NY 10022-2585

HR

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES, CA 90036-5679

In re Application of :
Alter : DECISION ON PETITION
Application No. 11/007,527 :
Filed: December 8, 2004 :
Docket No.: M085D :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed October 30, 2006.

This application was held abandoned for failure to timely submit a proper reply to the Office communication mailed April 18, 2006. Notice of Abandonment was mailed October 20, 2006.

Petitioner asserts that a response to the Office communication and an extension of time were timely submitted on October 17, 2006.

The original response was received October 20, 2006 and bears a certificate of mailing date of October 17, 2006 in accordance with 37 CFR 1.8 and is thus deemed to have been timely submitted. The response is present in the application file.

In view of the evidence thereof, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Technology Center 2811 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Advanced Medical Optics, Inc.
Legal Department
1700 E.St. Andrew Place
Santa Ana, CA 92705

Mail Date: 04/21/2010

Applicant	: Jim Deacon	: DECISION ON REQUEST FOR
Patent Number	: 7615073	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,533	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: 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

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

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OFFICE OF PETITIONS

In re Application of	:	
Hideki Nogawa, et al.	:	
Application No. 11/007,537	:	DECISION GRANTING PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 120342	:	

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 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2454 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
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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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Michael P. Corcoran	: DECISION ON REQUEST FOR
Patent Number	: 7582104	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **222** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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PETER L. BREWER
PATENT ATTORNEY
4609 CROSSOVER LANE
MEMPHIS, TN 38117

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In re Application of	:	
Lewandowski, John E.	:	DECISION ON PETITION
Application No. 11/007,554	:	TO WITHDRAW
Filed: December 8, 2004	:	FROM RECORD
Attorney Docket No. LEWA-001	:	

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 29, 2005.

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

A review of the file record indicates that the power of attorney to Peter L. Brewer has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Chase
Petitions Examiner
Office of Petitions

cc:

JOHN E. LEWANDOWSKI
19814 LAUREL TRAIL DRIVE
CYPRESS TX 77433

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/16/09

TO SPE OF : ART UNIT 2812 Gbryka, Alexander

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/006565 Patent No.: 7479435

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER
SPE

2812
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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FRIEDRICH KUEFFNER
317 MADISON AVENUE, SUITE 910
NEW YORK, NY 10017

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APR 2 9 2005

OFFICE OF PETITIONS

In re Application of :
Grafe, et al. :
Application No. 11/007,609 : DECISION GRANTING PETITION
Filed: December 8, 2004 :
Attorney Docket No. HM-443DIV :

This is a decision on the petition filed April 4, 2005, to vacate the "Notice of Omitted Items in Nonprovisional Application (the "Notice").

The petition is **granted**.

On December 8, 2004, the above-identified application was filed. However, on March 14, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date, but that Figure 2, as described in the specification, appeared to have been omitted. The Notice set a two-month period for reply.

In response, on April 4, 2005, applicant filed the present petition, a copy of Figure 2, and an Office date-stamped postcard receipt acknowledging receipt of 2 sheets of the drawings, among other items.

Upon review of the record, Figure 2 was not located among the application papers. However, the evidence is convincing that the application papers deposited December 8, 2004, included 2 sheets of drawings, and the Office subsequently misplaced Figure 2. Therefore, the application, including the 2 sheets of drawings, was complete on filing and entitled to a filing date of December 8, 2004.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 8, 2004, using the 2 sheets of drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Rutan & Tucker, LLP
611 Anton Blvd
Suite 1400
Costa Mesa, CA 92626

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FEB 2 7 2008

OFFICE OF PETITIONS

In re Application of	:	
Viktor I. Petrik et al.	:	
Application No. 11/007,612	:	DECISION ON PETITION
Filed: December 7, 2004	:	TO WITHDRAW
Attorney Docket No. 101209.0005US1	:	FROM RECORD
	:	

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 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 Hani Z Sayed on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address 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.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Viktor I. Petrik**
7/3 Bolotnikovskoy Street
Moscow, 113556
Russian Federation

cc: **Alexander Bobarykin and Viktor I. Petrik**
348 N. Eckoff Street
Orange, CA 92868

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/007,612	12/07/2004	Viktor I. Petrik	101209.0005US1

CONFIRMATION NO. 7919

POWER OF ATTORNEY NOTICE

34284
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

OC000000028506397

Date Mailed: 02/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/22/2007.

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

/tswilliams/

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

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ROBERT D. FISH
RUTAN & TUCKER LLP
611 ANTON BLVD 14TH FLOOR
COSTA MESA CA 92626-1931

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MAY 0 4 2005

OFFICE OF PETITIONS

In re Application of
Petrik
Application No. 11/007,614
Filed: December 7, 2004
Attorney Docket No. 101209.00006US1
For: MASS PRODUCTION OF CARBON NANOSTRUCTURES

DECISION GRANTING PETITION

This is a decision on the petition filed April 1, 2005 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 7, 2004, rather than the presently accorded filing date of December 9, 2004.

Petitioner requests the earlier filing date on the basis that the application was deposited in Express Mail service on December 7, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV389271929US that shows a date-in of "12/9" and a postal date stamp of "DEC 7 2004." The same Express Mail label number is found on the original application papers.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence

was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed April 1, 2005, is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **December 7, 2004** and the mailing of a corrected filing receipt.

Thereafter, the application will be forwarded to Technology Center Art Unit 2661 for examination in due course.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/007,614	12/07/2004	Viktor I. Petrik	101209.0006US1	7923

34284 7590 04/23/2008
Rutan & Tucker, LLP.
611 ANTON BLVD
SUITE 1400
COSTA MESA, CA 92626

EXAMINER
LIAO, DIANA J

ART UNIT	PAPER NUMBER
1793	

MAIL DATE	DELIVERY MODE
04/23/2008	PAPER

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

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

PTO/SB/83 (01-06)
Approved for use through 12/31/2008. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Application Number	11/007,614
Filing Date	12/07/2004
First Named Inventor	Viktor Petrik
Art Unit	1754
Examiner Name	SILVERMAN, STANLEY S
Attorney Docket Number	101209.0006US1

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

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number . 34284

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are: The practioner's client knowingly and freely assents to the termination of the employment

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

Approved 4-23-08 Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

OR

☒ Firm or Individual Name	Alexander Bobarykin		
Address	348 N. Eckhoff Street		
City	Orange	State CA	Zip 92868
Country	US		
Telephone	(714) 782-8222	Email	
Signature			
Name	Martin Fessenmaier	Registration No. 46697	
Date	03/09/07	Telephone No. (714) 641-5100	

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

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Alexander Bobarykin
348 N. Eckhoff Street
Orange CA 92868

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MAR 1 6 2009

OFFICE OF PETITIONS

In re Application of :
Viktor Petrik :
Application No. 11/007,614 :
Filed: December 7, 2004 :
Attorney Docket No. 101209.0006US1 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 24, 2008, to revive the above-identified application.[1]

The petition is **GRANTED**.

The record shows that a restriction requirement was mailed on September 19, 2007, which set a 1 month shortened statutory period for reply. The time period for the restriction requirement was restarted with the re-mailing of the restriction requirement on May 1, 2008. Accordingly, a reply was due on or before June 1, 2008, or on or before November 1, 2008 with the submission of an extension of time fee pursuant to the provisions of 37 CFR 1.136(a). No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 2, 2008. This decision precedes the mailing of Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of reply to restriction requirement (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

Deposit account no. 19-4415 will be charged the $810.00 petition fee.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required

[1] Upon the filing of the petition on October 24, 2008, the application was not abandoned. Petitioner could have purchased up to five months of additional time. Thus, a reply with extension of time could have been submitted until November 1, 2008. However, when the Office attempted to charge the five-month extension there were insufficient funds. As such, the petition is now appropriately treated under 37 CFR 1.137(b).

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 documents must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-3215.

This application is being referred to art unit 1793 for further action as the nature of the case may require.

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Dan Carnegie
5404 Alton Pkwy, Suite 5A #540
Irvine, CA 92604

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Trellis Intellectual Property Law Group, PC
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO CA 94303

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AUG 18 2006

OFFICE OF PETITIONS

In re Application of
MASSENZIO et al.
Application No. 11/007,618
Filed: December 7, 2004
Attorney Docket No. 100104-000110US

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 3, 2006.

The request is **NOT APPROVED**.

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

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: GEO AGE, Inc.
3740 Saint Johns Bluff Road S.
Suite 9
Jacksonville, FL 32224-2649

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

James K. Poole, Esq.
P.O. Box 925
Loveland, CO 80539

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APR 20 2007

OFFICE OF PETITIONS

In re Application of :

Jon B. Telleen :
Application No. 11/007,619 :
Filed: December 7, 2004 :
Attorney Docket No. JBT-1DIV :

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 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 James K. Poole 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.

The application became abandoned for failure to timely respond to the Office action mailed May 24, 2006.

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: **Jon B. Telleen**
413 Spruce St.
Boulder, CO 80539

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/007,619	12/07/2004	Jon B. Telleen	JBT-1DIV

CONFIRMATION NO. 7915

OC000000023465692

OC000000023465692

34491
JAMES K. POOLE, ESQ.
P.O. BOX 925
LOVELAND, CO 80539

Date Mailed: 04/19/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/14/2006.

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

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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/007,626	12/08/2004	2654	1570	018632.0077.NPUS00	2	29	4

CONFIRMATION NO. 6007

CORRECTED FILING RECEIPT

OC000000017050244

47669
KELLEY DRYE & WARREN LLP
TWO STAMFORD PLAZA
281 TRESSER BOULEVARD
STAMFORD, CT 06901

Date Mailed: 09/19/2005

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)

William F. Cote, Carlisle, MA;
Amy J. Uhrbach, Needham, MA;
Jill Carrier, Dorchester, MA;
Wensheng Han, Arlington, MA;

Assignment For Published Patent Application

Dictaphone Corporation, Stratford, CT

Power of Attorney: The patent practitioners associated with Customer Number **47669**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/533,217 12/31/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/007,626

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

System and method for accented modification of a language model

Preliminary Class

704

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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JJGJr: 09-05

Paper No: __

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SEP 16 2005

OFFICE OF PETITIONS

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

In re Application of	:	
Bowman et al.	:	
Application No. 11/007,641	:	DECISION ON PETITION
Filed: 8 December, 2004	:	
Attorney Docket No.: 8274-030	:	

This is a decision on the petition filed on 10 August, 2005, under 37 C.F.R. §1.47(a).

The petition is **GRANTED**.

NOTE: Petitioner is requested to place his telephone and mail contact information on papers submitted to facilitate contact when required.

BACKGROUND AND ANALYSIS

The record reflects that:

- the instant application was filed on 8 December, 2004, absent, *inter alia*, a fully executed oath/declaration;

- on 6 January, 2005, the Office mailed a Notice of Missing Parts, indicating therein, *inter*

alia, a two-month period for reply absent extension of time;

- on 10 August, 2005, Petitioner Edward W. Rilee (Reg. No. 31,869) filed (with a request and fee for extension of time) an oath/declaration signed by co-inventors Bowman, Underwood, Wilburn and Kingsley (on behalf of themselves and), but without the signature of non-signing inventor Patrick A. Dwyer (Mr. Dwyer), and with a statement by Petitioner as to the process of sending the entire application (description, claims, abstract and drawings) for review, with the oath/declaration for signature, supported said statement with a copy of the transmittal letters (only the last of which clearly evidences said transmittal), and set forth the last known and valid current address of the non-signing inventor.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJr: 09-05

Paper No: __

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SEP 16 2005

OFFICE OF PETITIONS

PATRICK A. DWYER
3017 SCOTTSDALE DRIVE
WEDDINGTON, NC 28104

In re Application of	:	
Bowman et al.	:	
Application No. 11/007,641	:	COMMUNICATION
Filed: 8 December, 2004	:	
Attorney Docket No.: 8274-030	:	

Dear Patrick A. Dwyer:

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.

---

[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]

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

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

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HOWARD IP LAW GROUP
P.O. BOX 226
FORT WASHINGTON, PA 19034

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony D. Kurtz, et al.	:	
Application No. 11/007,681	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. Kulite-99	:	FROM RECORD
	:	

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 29, 2008.

The request is **APPROVED**.

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

The request was signed by Edward J. Howard on behalf of all attorneys of record who are associated with customer No. 45722.

All attorneys/agents associated with the Customer Number 45722 have been withdrawn.

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

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

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

There is an outstanding Office action mailed November 19, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANTHONY D. KURTZ
136 E. SADDLE RIVER ROAD
SADDLE RIVER, NJ 07450

cc: THE PLEVY LAW FIRM
10 RUTGERS PLACE
TRENTON, NJ 08618

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/007,681	12/08/2004	Anthony D. Kurtz	

CONFIRMATION NO. 1501

POWER OF ATTORNEY NOTICE

45722
Howard IP Law Group
P.O. Box 226
Fort Washington, PA 19034

OC000000030947657

Date Mailed: 07/14/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/10/2008.

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

/amwise/

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

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JUL 15 2008

OFFICE OF PETITIONS

In re Application of	:	
Anthony D. Kurtz, et al.	:	
Application No. 11/007,681	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. KULITE-99	:	FROM RECORD
	:	

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 10, 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, "files were reassigned to the below mentioned firm in November and December and transferred to the address as mentioned below", does not meet any of the conditions set forth in 37 CFR 10.40.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: THE PLEVY LAW FIRM
10 RUTGERS PLACE
TRENTON, NJ 08618

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2-18-2010

TO SPE OF : ART UNIT 2611

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/007687 Patent No.: 7372895

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

Eva James
Certificates of Correction Branch
703-756-1583 _____

Should req. be granted?

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: _____

Chris Mi Fan — **SPE**

2611 — **Art Unit**

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LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

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In re Application of	:	
Rajesh D. Rajavel et al.	:	
Application No. 11/007,697	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before November 2, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 31, 2009. Accordingly, the date of abandonment of this application is November 3, 2009. A Notice of Abandonment was mailed on November 13, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue fee is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: George R. Rapacki
HRL Laboratories, LLC
3011 Malibu Canyon Road
Malibu, CA 90265

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ALEXANDER BOBARYKIN
348 N. ECKHOFF STREET
ORANGE, CA 92868

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OFFICE OF PETITIONS

In re Application of	:	
Viktor I. Petrik	:	
Application No. 11/007,698	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 101209.0004US1	:	

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Don J. Carnegie appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Carnegie desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to Mr. Carnegie, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 25, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 26, 2007. A Notice of Abandonment was mailed November 29, 2007.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay.

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

This matter is being referred to Technology Center 1793 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DON J. CARNEGIE
ST. GEORGE & CARNEGIE
5405 ALTON PARKWAY, SUITE 5A, PMB 540
IRVINE, CA 92604

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

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MAR 25 2009

OFFICE OF PETITIONS

In re Application of Sima :
Application No. 11/007,713 :
Filing Date: December 7, 2004 :
Attorney Docket No. 19006.1020 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.181 filed November 24, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a final Office action on May 5, 2008.

Petitioner filed a Request for Continued Examination (RCE) on July 18, 2008. Although the RCE and the papers accompanying the RCE listed correct information for the instant application, the RCE and papers were inadvertently electronically filed in Application No. 11/560,984.

The instant petition was filed November 24, 2008, three days after petitioner received a telephone call from the examiner indicating the Office had not received a reply to the final Office action.

A Notice of Abandonment was mailed December 4, 2008.

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper. The Office will accept papers as timely filed if the following criteria are met:

(1) The papers contained sufficient information for the Office to recognize they included an incorrect application number.
(2) The papers contained sufficient information for the Office to determine the correct application number.

The criteria above have been met. Therefore, the RCE and the papers filed with the RCE will be treated as timely filed on July 18, 2008, in the instant application. The RCE and the papers filed with the RCE have been transferred from the file for Application No. 11/560,984, to the file for the instant application. The $810 fee for the RCE has been charged to petitioner's deposit account.

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

Technology Center Art Unit 2169, will be informed of the instant decision and the application, including the Request for Continued Examination filed July 18, 2008, 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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3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS, CO 80528

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OFFICE OF PETITIONS

In re Application of	:	
Caleb Sima	:	
Application No. 11/007,713	:	DECISION ON PETITION
Filed: December 7, 2004	:	
Attorney Docket No. 200704529-2	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 7, 2009, to revive the above-identified application.

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

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

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before August 22, 2009, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed May 22, 2009. Accordingly, the date of abandonment of this application is August 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) 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 the examination or status of this application should be directed to the Office of Data Management at their hotline at 571-272-4200.

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

April M. Wise
Petitions Examiner
Office of Petitions

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P.O. BOX 2550
SALT LAKE CITY UT 84110

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JAN 23 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of
Bovio et al.
Application No. 11/007,718
Filed: December 6, 2004
Attorney Docket No. 3168-6396.4US

This is a decision on the petition under 37 CFR §1.102(d), filed November 15, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

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 inquires concerning this decision should be directed to Paralegal Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2835 for expedited prosecution.

Denise Pothier for

David Bucci
Petitions Examiner
Office of Petitions

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OPPENHEIMER WOLFF & DONNELLY LLP
ATTN: BARBARA A. WRIGLEY
PLAZA VII, SUITE 3300
45 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402

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APR 2 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Douglas S. Cali, et al.	:	DECISION ON PETITION
Application No. 11/007,732	:	UNDER 37 CFR 1.78(a)(3) AND
Filed: December 8, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 22561-3421/US/6	:	

This is a decision on the petition filed February 6, 2009, which is being treated as a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

A review of the reference submitted on petition reveals that the instant application is a pending application that is one of a series of applications wherein this pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. If applicant wishes that the pending application have the benefit of the filing date of the first filed application, applicant must, besides making reference to the intermediate application, also make reference to the first application. See Sticker Indus. Supply Corp. v. Blaw-Knox Co., 405 F.2d 90, 160 USPQ 177 (7th Cir. 1968) and Hovlid v. Asari, 305 F. 2d 747, 134 USPQ 162 (9th Cir. 1962). The reference to the prior applications must identify all of the prior applications and indicate the relationship (i.e., continuation, divisional, or continuation-in-part) between each nonprovisional application in order to establish copendency throughout the entire chain of prior applications.

Moreover, it is not sufficient to just identify all of the prior applications in the chain. To be proper, the appropriate references must have actually been made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this
application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A.

The amendment filed February 6, 2009 in this application states that the instant application is a continuation of Application No. 10/207,438, which is a continuation in part of Application No. 09/772,526, which claims benefit of provisional Application No. 60/178,333[1]. However, a review of the record of Application No. 10/207,438 discloses that, while this application included on filing a specific reference to Application No. 09/772,526, as a continuation-in-part application, it did not include a claim of priority to provisional Application No. 60/178,333. Thus, the break in the chain occurs in application No. 10/207,438 with respect to carrying forward the benefit claim to provisional application No. 60/178,333[2].

Since each intermediate prior application must have specific reference to other prior application, a proper petition under 37 CFR 1.78(a)(6) claiming priority to Application

---

[1] This application also claims benefit of provisional application No. 60/308,268, which was filed within a year of the instant application and thus, does not require an intermediate application to satisfy the 12 month requirement. Regardless, intermediate application No. 10/207,438 claims priority to provisional application No. 60/308,268.

[2] It is noted that application No. 09/772,526 does claim priority to provisional application No. 60/178,333. Thus, there is not break in the chain with respect to prior application No. 09/772,526.

No. 60/178,33 is required in Application No. 10/207,438, before the instant petition under 37 CFR 1.178(a)(3) and 1.78(a)(6) could be granted in the present application. Petitioner is reminded that, if the reference required by 35 U.S.C. 119(e) and paragraph (a)(5) is presented in a nonprovisional application after the time period provided by paragraph (a)(5)(ii), the claim under 35 U.S.C. 119(e) for the benefit of a prior filed provisional application must be filed during the pendency of the later-filed application. Since application No. 10/207,438 has issued as a patent, a reissue application would be necessary to correct the claim for priority.

Once a decision granting the petition under 37 CFR 1.178(a)(6) is received for Application No. 10/207,438, a copy of the decision and a request to renew the present petition under 37 CFR 1.178(a)(3) and 1.78(a)(6) should be promptly filed. No further petition fee is required in the present application.

Further correspondence with respect to this matter should be delivered through one of the following mediums:

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

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

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

By Internet: EFS-Web[3]

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[3] **www.uspto.gov/ebc/efs_help.html** (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

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

COOPER & DUNHAM, LLP
1185 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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MAR 1 2 2008
OFFICE OF PETITIONS

In re Application of	:	
GOULMY	:	
Application No. 11/007,740	:	DECISION ON PETITION
Filed: 12/08/2004	:	
Attorney Docket No. 2799/58994-A/RDK	:	

This is a decision on the petition under 37 CFR 1.181, filed February 1, 2008, to withdraw the holding of abandonment, 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**.

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

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed April 2, 2007, which set a extendable period one (1) month or thirty (30) days (whichever is later) for reply. In the absence of a timely filed reply, the application became abandoned on May 3, 2007. On January 11, 2008, the Office mailed a Notice of Abandonment.

Petition under 37 CFR 1.181

Petitioners assert that they submitted a timely response to the Restriction Requirement via facsimile transmission on September 4, 2007, accompanied by a request for an extension of time for response within the fourth month, and an authorization to charge the Deposit Account for the requisite fee. Petitioners have provided a copy of the reply, including the request for an extension of time for response within the fourth month, bearing a certificate of facsimile transmission. However, petitioners cannot locate a copy of the automatic receipt from the USPTO acknowledging successful transmission of the papers.

Pursuant to 37 CFR 1.8(b):

> 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. If the correspondence was transmitted via the Office electronic filing system, a copy of an acknowledgment receipt generated by the Office electronic filing system confirming submission may be used to support this statement.

The petition does not satisfy requirement (3). Petitioners did not submit a copy of the sending unit's report confirming transmission of the reply on September 4, 2007.

Accordingly, the petition under 37 CFR 1.181 is **dismissed**.

Petition under 37 CFR 1.137(b)

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of an Election; (2) the petition fee; 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 this paragraph was unintentional" be submitted. However, the statement presented will be accepted and construed as the statement required by 37 CFR 1.137(b)(3). Petitioners must notify the Office if this is not a correct interpretation of the statement contained in the present petition.

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

An extension of time under 37 CFR 1.136 must be filed before 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 $820.00 extension of time fee submitted with the petition on February 1, 2008, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioners' Deposit Account.

This matter is being referred to Technology Center Art Unit 1634.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE CT 06468

COPY MAILED

JUN 12 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Makela :
Application No. 11/007,741 :
Filed: December 7, 2004 :
Attorney Docket No. 915-005.134 :
For: AN ARRANGEMENT FOR PROCESSING DATA FILES IN CONNECTION WITH A TERMINAL

This is a decision on the petition under 37 CFR 1.137(b), filed October 31, 2005 (certificate of mailing date October 28, 2005), to revive the above-identified application.

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

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Application mailed February 7, 2005, which set a two month shortened statutory period for reply. No extensions of time having been obtained pursuant to 37 CFR 1.136(a) and no reply being received in the Office, this application became abandoned on April 8, 2005. A Notice of Abandonment was mailed on October 21, 2005.

Applicant has submitted a proper reply to the February 7, 2005 Notice in the form of an executed declaration and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the February 7, 2005 Notice, and the petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted

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

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

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

J. Scott Denko
Andrews & Kurth LLP
111 Congress Ave., Suite 1700
Austin, TX 78701

COPY MAILED
SEP 23 2008

In re Application of	:	
Paul Goodwin	:	
Application No. 11/007,745	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. 254-MICP/AK 156644	:	FROM RECORD
	:	

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 23, 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 J. Scott Denko 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 Joe Smith at the address indicated below.

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: **Paul Goodwin**
8 Glen Rock Dr.
Austin, TX 78738

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
11/007,745	12/08/2004	Paul Goodwin	254-MICP/AK 156644

CONFIRMATION NO. 7246

POWER OF ATTORNEY NOTICE

36485
J. SCOTT DENKO
ANDREWS & KURTH LLP
111 CONGRESS AVE., SUITE 1700
AUSTIN, TX 78701

OC000000032216868

Date Mailed: 09/22/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/23/2008.

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

/tswilliams/

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

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PAUL GOODWIN
8 GLEN ROCK DR.
AUSTIN TX 78738

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NOV 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Paul Goodwin	:	
Application No. 11/007,745	:	DECISION ON PETITION
Filed: December 8, 2004	:	
For: MICROPROCESSOR OPTIMIZED FOR	:	
ALGORITHMIC PROCESSING	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 15, 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 an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed December 10, 2007, is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

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

This application is being referred to Technology Center AU 2183 for appropriate action by the Examiner in the normal course of business on the reply received September 15, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

FISH & RICHARDSON, P.C.
ONE CONGRESS PLAZA
SUITE 810
111 CONGRESS AVENUE
AUSTIN TX 78701

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : **US 7,674,745 B2**

APPLICATION NO.: **11/007,747**

ISSUE DATE : **March 09, 2010**

INVENTOR(S) : **HEIDEMANN et al.**

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

In Claim 1, col. 21, indicated lines 39 and 40:
"15.23 + 0.6, 12.16 + 0.4, 10.68 + 0.3, 3.41 + 0.04, 3.09 + 0.04, 3.02 + 0.04, 2.36 + 0.04 and 1.80 + 0.04 Å," should read:
-- 15.23 ± 0.6, 12.16 ± 0.4, 10.68 ± 0.3, 3.41 ± 0.04, 3.09 ± 0.04, 3.02 ± 0.04, 2.36 ± 0.04 and 1.80 ± 0.04 Å, --

In Claim 10, col. 22, indicated line 51:
"P is from 0 to 0.5," should read: -- b is from 0 to 0.5, --

In Claim 10, col. 22, indicated lines 50 and 60:
"15.23 + 0.6, 12.16 + 0.4, 10.68 + 0.3, 3.41 + 0.04, 3.09 + 0.04, 3.02 + 0.04, 2.36 + 0.04 and 1.80 + 0.04 Å." should read:
-- 15.23 ± 0.6, 12.16 ± 0.4, 10.68 ± 0.3, 3.41 ± 0.04, 3.09 ± 0.04, 3.02 ± 0.04, 2.36 ± 0.04 and 1.80 ± 0.04 Å. --

In Claim 11, col. 23, indicated line 5:
"P is from 0 to 0.5," should read: -- b is from 0 to 0.5, --

In Claim 11, col. 24, indicated lines 5 and 6:
"15.23 + 0.6, 12.16 + 0.4, 10.68 + 0.3, 3.41 + 0.04, 3.09 + 0.04, 3.02 + 0.04, 2.36 + 0.04 and 1.80 + 0.04 Å." should read:
-- 15.23 ± 0.6, 12.16 ± 0.4, 10.68 ± 0.3, 3.41 ± 0.04, 3.09 ± 0.04, 3.02 ± 0.04, 2.36 ± 0.04 and 1.80 ± 0.04 Å. --

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

T.O.

Novak, Druce, DeLuca + Quigg
1300 Eye Street, N.W. - 1000 West Tower
Washington, DC 20005

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/29/10

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11007747 Patent No.: 7674745

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.

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

Comments: _____

/Janet L. Andres/
SPE

1625
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
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

INTERNATIONAL BUSINESS MACHINES CORP
IP LAW
555 BAILEY AVENUE , J46/G4
SAN JOSE, CA 95141

Mail Date: 04/20/2010

Applicant	: Michael Beisiegel	: DECISION ON REQUEST FOR
Patent Number	: 7594217	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,753	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HARSHAW RESEARCH, INC.
210 W. TECUMSEH STREET
OTTAWA KS 66067

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AUG 0 8 2008

In re Patent of Howe, et al. :
Patent No. 7,205,889 :
Issued : April 17, 2007 :
Application No. 11/007,762 :
Filed: December 8, 2004 :
Attorney Docket No. 63861
FOR: SYSTEM FOR MONITORING A PERSON'S LOCATION IN A DEFINED AREA

ON PETITION

In re Application of Howe, et al.
Application No. 12/157,615
Filed: October 4, 2007
Attorney Docket No. 78240-63861
For: SYSTEM FOR MONITORING A PERSON'S LOCATION IN A DEFINED AREA

This is a decision on the petition under 37 CFR 1.182, filed January 31, 2008 in Application No. 11/007,762, requesting recognition of a previously filed reissue application.

Applicants attempted to file a reissue application based on the above-identified patent on October 4, 2007. Due to inadvertent electronic filing error, the reissue application was filed as correspondence in the above-identified application.

Petitioners request that the reissue application found in the above-identified application be assigned a serial number and a filing date of October 4, 2007.

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

The reissue application has been assigned Application No. 12/157,615. Its filing date is October 4, 2007. All fees paid in connection with the reissue application have been transferred to the account for Application No. 12/157,615.

After the mailing of this decision, Application No. 11/007,762 will be returned to Files Repository and Application No. 12/157,615 will be referred to the Office of Patent Application Processing for further pre-examination processing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/007,779	12/07/2004	2621	1200	915-005.135	7	14	4

CONFIRMATION NO. 8368

CORRECTED FILING RECEIPT

OC000000015757935

004955
WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Date Mailed: 04/15/2005

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

Applicant(s)

Antti Vaha-Sipila, Residence Not Provided;

Power of Attorney: None.

Domestic Priority data as claimed by applicant

Foreign Applications

FINLAND 20035236 12/12/2003

If Required, Foreign Filing License Granted: 03/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/007,779

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

Non-Publication Request: No

Early Publication Request: No

Title

Arrangement for presenting information on a display

Preliminary Class

382

BEST AVAILABLE COPY

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

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

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AUG 2 4 2006

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Edward Widner :
Application No. 11/007,781 :
Filed: December 8, 2004 :
Attorney Docket No.99999.0000/4562P :

This is a decision on the petition under 37 CFR 1.137(b), filed May 15, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED.**

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

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

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

By FAX: (571) 273-8300

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SUITE 1800
SALT LAKE CITY UT 84111

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MAR 19 2007

OFFICE OF PETITIONS

In re Patent No. 7,142,997	:	
Issue Date: November 28, 2006	:	
Application No. 11/007,781	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 99999.0000/4562P	:	

This is a decision on the renewed petition, filed August 28, 2006, which is being treated as a petition under 37 CFR 1.137(b) to accept an unintentionally delayed notification to the U.S. Patent and Trademark Office (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 under 37 CFR 1.137(b) is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 7, 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. Therefore, pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c), petitioner failed to timely notify the USPTO of the filing of a counterpart 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(b) to accept an unintentionally delayed notification to the USPTO of the filing of a counterpart application in an eighteen-month publication country 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 as provided by 35 U.S.C. § 122(b)(2)(B)(iii) is accepted as having been unintentionally delayed.

This application matured into Patent No. 7,142,997 on November 28, 2006. Therefore, no further action being required, this patented file is being forwarded to Files Repository.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAY 24 2007

OFFICE OF PETITIONS

NATALYA B. DANILOVA
7210 SEMINOLE BLVD.
SEMINOLE FL 33772

In re Application of

DANILOVA, Natalya B.
Application No. 11/007,788
Filed: December 8, 2004
Attorney Docket No.

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 23, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence, such as a doctor's certificate or other medical certificate, showing that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition does not include evidence such as a doctor's certificate showing that the applicant's state of health is such that she might not be available to assist in the prosecution of the application if the disease were to run its normal course. The "prescription note" submitted is not sufficient evidence in that it is not a medical or doctor's certificate and does not specify that the state of the applicants health condition is such that she may not be able to assist in the prosecution if the disease ran it's normal course.

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).

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

By Mail: Mail Stop PETITION

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 3765 for action in its regular turn.

Monica A. Graves
Petitions Examiner
Office of Petitions

Conferee: Amelia Au

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6/6/07

NATALYA B. DANILOVA
7210 SEMINOLE BLVD.
SEMINOLE FL 33772

In re Application of:
DANILOVA, NATALYA B.
Serial No.: 11/007,788
Filed: Dec. 8, 2004
Docket: n/a
Title: PERSONAL CHANGING TENT

DECISION ON PETITION TO REVIEW EXAMINER'S OFFICE ACTIONS

This is a decision on the petition filed on Feb. 8, 2007 by which petitioner requests supervisory review of examiner's Office actions in this application. The petition is considered pursuant to 37 CFR 1.181 and no fee is required.

The petition is dismissed.

In the petition, petitioner alleges that the examiner refused to help the applicant to draft a claim to define her invention. The examiner rejected all claims in the final office action of Dec. 6, 2006. In the petition, petitioner further alleges that the examiner literally "quoted" applicant's claim and referred it as Bowers' disclosure. The examiner in the final Office action responded to the applicant's request for help in drafting allowable claim(s) by rejecting the claims and stating no novel subject matter is found for which an allowable claim could be drawn. Petitioner disagrees with the examiner's rejection. In particular, petitioner argues that the prior art reference, U. S. Pat. 5,101,513 to Bowers, never disclosed nontransparent material. The prior art used by the examiner was non-analogous art. The examiner falsified the rejection of the claims. Petitioner further states that the examiner's supervisor was biased when asked to review the examiner's office action. The supervisor would not allow the applicant to introduce a new drawing to further explain the invention. Petitioner further argues in the petition that the final Office action was not in compliance with M.P.E.P. 2271.01 because the Office action was not signed by any conferees. Lastly, petitioner indicated that the examiner did not examine the application based on proper professionalism and ethics.

A review of all the Office actions reveals that the examiner did comply with all applicable rules and procedures, which were properly reviewed and signed by a Primary Examiner or a Supervisory Patent Examiner in accordance with M.P.E.P 1004. There is no evidence in the record indicates any bias on the part of the examiner's reviewer. The examiner's Office actions are not arbitrary and capricious. In response to petitioner's argument that the Office actions contain no conferees' initials as required by M.P.E.P. 2271.01, this provision of the M.P.E.P. is related to the process for the re-examination of patents based on an alleged new question of

patentability, and not the regular examination of patent applications. Therefore, no conferees' initials are required to officiate any Office actions in the present patent application. With regard to the examiner's refusal to draft an allowable claim, the examiner indicated in the final Office action that there is no patentable subject matter found for which an allowable claim could be drafted. This is consistent with M.P.E.P. 707.07(J). With regard to the examiner's rejection of claims and refusal to permit adding a new drawing, the examiner has taken a substantive position on patentability and the resolution of whether that position is correct or not is a matter for appeal pursuant to 35 U.S.C. 134 and 37 CFR 1.191. It is immaterial that the examiner literally quoted applicant's claim and referred to Bowers' disclosure or teachings, if the Office action is correct on the merits then it is correct, if not, it is incorrect, but this issue is one that must be resolved by appeal. Thus, the request for supervisory authority presented in this petition amounts to a request for relief from the examiner's position. But such relief is unavailable because the correctness of the examiner's position is appealable only. It is noted that the applicant has filed a notice of appeal on March 3, 2007 and an Appeal Brief on April 23, 2007. Finally, with respect to the comments regarding proper decorum and courtesy, the record indicates that the examiner was in compliance with 37 CFR § 1.3.

For the foregoing reasons it appears that the examiner's office actions in this application are proper and in full compliance with all applicable statutes and regulations. Therefore, there is no basis for granting the relief requested.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181. Should petitioner have any further questions, he is invited to contact Henry Yuen, Special Program Examiner, at (571) 272-4856.

PETITION DISMISSED

Frederick R. Schmidt, Director
Technology Center 3700

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NATALYA B. DANILOVA
7210 SEMINOLE BLVD.
SEMINOLE FL 33772

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OFFICE OF PETITIONS

In re Application of	:	
DANILOVA, Natalya B.	:	
Application No. 11/007,788	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed June 11, 2007, to make the above-identified application special based on applicant's health as set forth in M.P.E.P. § 708.02, Section III.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section III: Applicant's Health, must be accompanied by evidence showing such as a doctor's certificate or other medical certificate that the state of health of the applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. No fee is required

The instant petition includes a medical certificate from Dr. David E. Jones, Jr., MD., and Ph.D., attesting to inventor Natalya B. Danilova's state of health. 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 3765 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

Conferee:
Amelia Au

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

Steinfl & Bruno
301 N Lake Ave Ste 810
Pasadena, CA 91101

Mail Date: 04/21/2010

Applicant	: Colin P. Williams	: DECISION ON REQUEST FOR
Patent Number	: 7590607	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,792	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/07/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1316** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TRASKBRITT, P.C.
P.O. BOX 2550
SALT LAKE CITY, UT 84110

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JUL 16 2009

OFFICE OF PETITIONS

In re Application of :
Josbert Maarten Metselaar :
Application No. 11/007,799 : ON PETITION
Filed: December 8, 2004 :
Attorney Docket No. 2183-6747US :

This is a decision on the petition filed May 11, 2009 under the unintentional provisions of 37 CFR 1.137(b), 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 continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/387,598.

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

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MAY 27 2005

OFFICE OF PETITIONS

In re Application of :
Bee Yee Ng, et al. :
Application No. 11/007,827 : DECISION GRANTING PETITION
Filed: December 7, 2004 :
Attorney Docket No. 015114-077000US :

This is a decision on the communication styled "Request for Corrected Filing Receipt" filed February 15, 2005, requesting, in effect, that the above-identified application be accorded a filing date of December 7, 2004, instead of the presently accorded date of December 8, 2004.

Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on December 7, 2004. In support, applicants provide, inter alia, a copy of the Express Mail label, No. EV323381420US. The same Express Mail receipt number appears on the original transmittal letter found in the file.

It is noted that while the "date-in" entered on the present copy of the Express Mail mailing label is not clear, the USPS Track & Confirm record confirms that a package bearing Express Mail label No. EV323381420US was accepted "December 7, 2004; 4:25pm., Palo Alto, CA 94301."

Accordingly, the evidence is convincing that the application was deposited as "Express Mail" with the U.S. Postal Service on December 7, 2004.

The petition is GRANTED.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **December 7, 2004**, and issuance of a Corrected Official Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (703) 308-1202.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

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MAY 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,448,685
Issued: November 11, 2008
Application No. 11/007,832
Filed: December 8, 2004
Attorney Docket No. 026032-4845

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed January 9, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred eighty-four (484) days to seven hundred eighty-nine (789) days.

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

On November 11, 2008, the above-identified application matured into US Patent No. 7,448,685 with a patent term adjustment of 484 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 789 days, which is the sum of 339 days of patent term adjustment due to exceeding three year pendency and 484 days due to USPTO delay in prosecution minus 34 days of applicant delay.

The 339-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 8, 2004, and the patent having been issued on November 11, 2008, three years and 339 days later. Patentees assert that in addition to this 339-day period, they are entitled to a period of adjustment due to examination

delay pursuant to 37 CFR 1.702(a), of 484 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 indicate applicant delay in the amount of 34 days for the period October 8, 2008, the day after the issue fee was paid, to November 11, 2008, the day the patent was issued. As no persuasive argument or further justification for reduction has been provided, there is no basis in the record to support the claim.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (339 days) and the period of Examination Delay (484 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 823 days, which is the sum of the period of Three Year Delay (339 days) and the period of Examination Delay (484 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 789 days (339 + 484 reduced by 0 overlap – 34 (applicant delay)).

The Office agrees that as of the issuance of the patent on November 11, 2008, the application was pending three years and 339 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 484 days is correct. At issue is whether patentees should accrue 339 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 484 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 339 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 8, 2004, to the date the patent issued on November 11, 2008. Prior to the issuance of the patent, 484 days of patent term adjustment were accorded for the Office failing to respond within a specified time frame during the pendency of the application. All of the 339 days for Office delay in issuing the patent overlap with the 484 days of Office delay. During that time, the issuance of the patent was delayed by 484 days, not 484 + 339 days. The Office took 14 months and 484 days to issue a first Office action. Otherwise, the Office

[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).

took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 484 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 339 days. The Office did not delay 484 days and then an additional 339 days. Accordingly, 484 days of patent term adjustment (not 484 and 339 days) was properly entered since the period of delay of 339 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 484 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 484 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 339 days over three years to the issuance of the patent.

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

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

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

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

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

UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE
BLDG C2 SOUTH
ENGLEWOOD CLIFFS NJ 07632-3100

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AUG 24 2006
OFFICE OF PETITIONS

In re Application of	:	
Farrell, et al.	:	
Application No. 11/007,842	:	DECISION ON
Filed: December 9, 2004	:	PETITION
Attorney Docket No. J6933(C)	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed January 23, 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 12, 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 13, 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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

September 6, 2007

Patent No. : 7234667 B1
Ser. No. : 11/007855
Inventor(s) : Talmage, Jr.
Issued : June 26, 2007
Title : **MODULAR AEROSPACE PLANE**
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 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: Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (571) 273-8300
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

WALTER A. RODGERS
RODGERS & RODGERS
6100 LAKE FORREST DRIVE
SUITE 340
ATLANTA GA 30328

CBN/eme

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-09

WALTER A. RODGERS
RODGERS & RODGERS
6100 LAKE FORREST DRIVE
SUITE 340
ATLANTA GA 30328

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FEB 03 2009

OFFICE OF PETITIONS

In re Patent Number: 7234667	:	
Issue Date: 06/26/2007	:	
Application Number: 11/007855	:	LETTER DISMISSING PETITION
Filing Date: 12/09/2004	:	
Attorney Docket Number: 11374	:	

This is a decision on the request filed on October 2, 2007, styled as a petition under 37 CFR 1.182, to correct the sole inventor's address.

The petition is **DISMISSED** for the reasons stated below.

Petitioner requests issuance of a certificate of correction to change the address of the patentee. Specifically, petitioner states that an incorrect address was entered on the original declaration.

At the outset, the proper fees have not been supplied. The fee for a petition under 37 CFR 1.182 is currently $400.00. The petition, however, included payment of only $130.00. 37 CFR 1.22(a) requires all fees payable to the U.S. Patent and Trademark Office to be paid in advance. As such, the patent must be dismissed pending submission of the proper petition fee.

More importantly, it is noted that the patent was printed with the inventor address information of record at the time of issuance. In paying the issue fee, applicant assented to the issuance of the patent with the address of the inventor as contained in the declaration. Therefore, no Certificate of Correction is in order. *See e.g.* 37 CFR 3.81 and MPEP 1481.

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 concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Chung Wah N. IP et al.	:	
Application No. 11/007,860	:	DECISION ON PETITION
Filed: December 08, 2004	:	
Attorney Docket No. 24006-09521	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 19, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before May 12, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on May 13, 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; (2) the petition fee of $770.00 and; (3) a proper statement of unintentional delay. Accordingly, the issue fee payment is accepted as being unintentionally delayed.

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

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 06/01/2010

Applicant	: Firas Abi-Nassif	: DECISION ON REQUEST FOR
Patent Number	: 7626926	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/007,899	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **655** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ELSIE C. TURNER
SUITE 204
201 PARK PLACE
ALTAMONTE SPRINGS, FL 32701

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OFFICE OF PETITIONS

In re Application of :
Charles R. Heehler :
Application No. 11/007,904 : DECISION ON PETITION
Filed: December 8, 2004 :
Title of Invention: METHOD AND SYSTEM :
FOR PROVIDING CUSTOMIZED SKIN CARE
PRODUCTS AT POINT OF SALE

This is a decision on the petition filed October 3, 2006, under 37 CFR 1.137(a), to revive the above-identified application.

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

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

This application became abandoned on May 24, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed March 23, 2005, which set a two (2) month period for reply. Accordingly, the Notice of Abandonment was mailed September 6, 2006.

Petitioner asserts that the Notice to File Missing Parts was never received.

UNAVOIDABLE DELAY

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with §

> 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
> (2) the petition fee as set forth in § 1.17(l);
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (3) above.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

[2] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

Petitioner asserts that the Notice March 23, 2005 was never received. A review of the record indicates no irregularity in the mailing of the Office action, 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 the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the 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 petitioner's statement.[3]

Petitioner has not submitted additional evidence to corroborate the allegation of non-receipt. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 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)[4], which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional 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

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[3]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).

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

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

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

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

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

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

ELSIE C. TURNER
SUITE 204
201 PARK PLACE
ALTAMONTE SPRINGS, FL 32701

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OFFICE OF PETITIONS

In re Application of
Charles R. Heehler
Application No. 11/007,904
Filed: December 8, 2004
Title of Invention: METHOD AND SYSTEM FOR PROVIDING CUSTOMIZED SKIN CARE PRODUCTS AT POINT OF SALE

DECISION ON PETITION

This is a decision on the petition filed November 21, 2006, under 37 CFR 1.137(b)[1], to revive the above-identified application.

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

This application became abandoned on May 24, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed March 23, 2005, which set a two (2) month period for reply. Accordingly, the Notice of Abandonment was mailed September 6, 2006. A petition filed October 3, 2006 under 37 CFR 1.137(a) was dismissed in a decision mailed November 7, 2006 because petitioner did not satisfy to the satisfaction of the Director that the delay in responding to the Notice to File Missing Parts mailed March 23, 2005 was unavoidable.

Comes now petitioner with the instant petition under 37 CFR 1.137(b). All requirements having been met under the unintentional standard including the response to the Notice

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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)).

to File Missing Parts which was provided with the petition filed October 3, 2006, 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

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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ADVANTEDGE LAW GROUP, LLC
3301 N. UNIVERSITY AVE .
SUITE 200
PROVO UT 84604

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MAR 3 1 2008

In re Application of :

WHITEHURST, Todd K. et al. :
Application No. 11/007,906 : DECISION ON PETITION
Filed: December 09, 2004 : TO WITHDRAW
Attorney Docket No. **3013-0149 (05-00580-03)** : FROM RECORD

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 and resubmitted February 14, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, (ownership transfer), 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 the undersigned at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
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.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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DEC 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Velazquez et al.	:	
Application No. 11/007,910	:	ON APPLICATION FOR
Filed: December 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. IN06139US01	:	
Title: NOVEL INHIBITORS OF	:	
HEPATITIS C VIRUS NS3/NS4A	:	
SERINE PROTEASE	:	

This is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION," filed October 23, 2008, which is being treated pursuant to 37 C.F.R. § 1.705(b). Applicant requests that the determination of patent term adjustment be increased by four hundred and forty-two (442) days to seven hundred and twenty-two (722) 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 C.F.R. § 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 C.F.R. § 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 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Receipt of the required $200 petition fee, as set forth in 37 C.F.R. § 1.18(e), is acknowledged. 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 regarding his decision should be directed to Senior Attorney Paul Shanoski at (571) 272-3225. Petitioner will note that all practice before the Office should be in

writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

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AUG 20 2009

OFFICE OF PETITIONS

In re Patent No. 7,485,625	:	
Velazquez et al.	:	DECISION DISMISSING
Application No. 11/007,910	:	REQUEST FOR
Issue Date: February 3, 2009	:	RECONSIDERATION OF
Filed: December 29, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No.: IN06139US01	:	UNDER 37 CFR § 1.705(d)
Title: NOVEL INHIBITORS OF	:	
HEPATITIS C VIRUS NS3/NS4A SERINE	:	
PROTEASE	:	

This is a decision on the "LETTER REGARDING PATENT TERM ADJUSTMENT DETERMINATION," filed on March 13, 2009, which is being treated as a petition pursuant to 37 CFR § 1.705(d), requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred and ninety-one (391) to seven hundred and twenty-two (722) days.

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

A request for reconsideration of patent term adjustment was previously made on October 23, 2008. A decision was mailed on December 12, 2008, indicating that this would be held in abeyance, as the patent had not issued yet.

On February 3, 2009, the application matured into U.S. Patent No. 7,485,625, with a revised patent term adjustment of 391 days.

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

On March 13, 2009, patentees timely submitted this request for reconsideration of patent term adjustment within two months of the issue date of the patent. Patentees argues, citing Wyeth v. Dudas, Civ. Action No. 07-1492 (JR), that "the total number of days should include the 330 day first Office action delay, 422 day Issue of patent delay, and 31 days Applicant delay, which is a total patent term adjustment of 722 days."[1]

As a preliminary matter, patentee's math is incorrect: 422 plus 330 reduced by 31 is 721, and not 722. Moreover, it appears that patentee believes that the periods of delay under 37 C.F.R. § 1.702(a) and 37 C.F.R. § 1.702(b) overlap by 3 days from December 9, 2007 to December 11, 2007. **As such, patentee's argument will be construed as asserting an entitlement to a total patent term adjustment of 721 days**, which is the sum of the 422 days of patent term adjustment due to exceeding the three year pendency plus 330 days due to USPTO delay in prosecution, minus the 31 days of applicant delay.

Patentee's submission will thus be construed as containing a request for recalculation of the patent term adjustment to include a 422-day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 422 days plus the period of adjustment due to other examination delay, pursuant to 37 CFR § 1.702(a), of 333 days reduced by 3 days of overlap minus 31 days of applicant delay, *i.e.* that the revised determination of patent term adjustment indicated on the patent should be 721 days.

The 422-day period is calculated based on the application having been filed under 35 U.S.C. §111(a) on December 9, 2004, and the instant patent issued on February 3, 2009, which is 3 years and 422 days after its filing date.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay.

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[1] Petition, page 3.

The period of reduction of 31 days for applicant delay is not in dispute.

The Office agrees that the application was pending 3 years and 422 days after its filing date. The Office agrees that certain actions were not taken within the specified time frames, and thus, the entry of a period of adjustment of 333 days for Office delay is correct. At issue is whether Patentees should accrue 319 days of patent term adjustment for the Office taking in excess of three years to issue the patent (422 days less the 3 days of overlap), as well as 333 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the entire 422-day period overlaps. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 37 CFR 1.703(f) provides that:

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

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office 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 37 C.F.R. § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 9, 2004 to February 3, 2009. 333 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 422 days for Office delay in issuing the patent overlap with the 333 days of Office

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[2] 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).

delay. During that time, the issuance of the patent was delayed by 333 days, not 333 + 422 = 755 days. Other than the periods of Office delay pursuant to 37 C.F.R. §§ 1.702(a)(1) and (2) which total 333 days, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes.

Nonetheless, given the initial 333 days of Office delay and the 31 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date of issuance of this patent, the application was pending three years and 422 days. The Office did not delay 333 days and then an additional 422 days. Accordingly, 422 days of patent term adjustment (not 422 and 333 days) was properly entered since the entire period of delay of 422 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 333 days attributable to grounds specified in §§ 1.702(a)(1) and (2). Entry of both periods is not warranted. 422 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 422 days over three years to the issuance of this patent.

Accordingly, at issuance, the Office properly entered 89 additional days of patent term adjustment for the Office taking in excess of 3 years to issue the patent.

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

Telephone inquiries specific to this matter should be directed to Paul Shanoski, Senior Attorney, at (571) 272-3225.

C. L. Donnell for

Anthony Knight
Supervisor
Office of Petitions

STATUTE AND REGULATION

35 U.S.C. § 154(b) as amended by § 4402 of the American Inventors Protection Act of 1999[3] (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 –

[3] 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[4]:

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

---

[4] (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[5]:

37 CFR 1.703(f) provides that:

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

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[5] (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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-21-07

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction on Patent No.: 7087832 B2 (11/007916

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 3-915
Palm location 7580 - Tel. No. 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.

Should inventors be listed as requested?

E. James

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

Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 3-21-07

TO SPE OF : ART UNIT 1753

SUBJECT : Request for Certificate of Correction on Patent No.: 7087832 B2 (11/007916

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 3-915
Palm location 7580 - Tel. No. 305-8309

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Should inventors be listed as they were?

Thank You For Your Assistance

E. James
Certificates of Correction Branch

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

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

Comments:

Applicant made change under 37 CFR §1.48 on 6/14/06, but it was not made in printing the patent.

NAM NGUYEN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700
SPE

1753
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark

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3420 CENTRAL EXPRESSWAY
SANTA CLARA, CA 95051

Mail Date: 04/20/2010

Applicant	: Erik G. Puffenberger	: DECISION ON REQUEST FOR
Patent Number	: 7632640	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/007,924	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **553** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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OFFICE OF PETITIONS

In re Application of	:	
Drucker et al.	:	DECISION ON PETITION
Application No. 11/007,941	:	
Filed: 9 December, 2004	:	
Atty Docket No. 1426-2	:	

This is a decision on the petition, filed on 17 August, 2005, under 37 CFR 1.137(f) which is treated as a petition to revive the above-identified nonprovisional application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on 3 February, 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.

A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, which sets forth the projected publication date of 19 January, 2006, is enclosed herewith.

The application is being referred to Technology Center Art Unit 2161 for examination in due course.

Any inquiries concerning this decision may be directed to the undersigned at 571.272.3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ANGELES, CA 90036-5679

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OFFICE OF PETITIONS

In re Application of	:	
Jason YAN	:	
Application No. 11/007,943	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. B-5615 622361-4	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 13, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney given to, Ladas & Parry has been revoked by the assignee of the patent application on November 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

There is an outstanding Office action mailed December 20, 2006 that requires a reply by the applicant.

Telephone inquires concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: JASON YAN
NO. 8, LANE 108, YA CHOU RD.
TU-CHENG CITY
TAIPEI HSIEN
TAIWAN

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Hung Chang Lin
8 Schindler Ct.
Silver Spring, MD 20903

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of
FATHIMULLA, et al.
Application No.: 11/007,951
Filed: December 3, 2002
Attorney Docket No.: ET-11

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under 37 CFR 1.137(b), filed December 29, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.137(b)."

The above-identified application became abandoned for failure to reply in a timely manner to the "Notice to File Corrected Application Papers" mailed on March 22, 2005.

A petition under 37 CFR 1.137(b) requesting that the application be revived on the grounds of unintentional abandonment must be accompanied by (1) the required reply, (2) the petition fee required by law, (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" and (4) any terminal disclaimer and fee pursuant to 37 CFR 1.137(c) (where required).

The instant petition does not satisfy requirement (1) above. Specifically, while applicant has filed a replacement drawing, the filed response does not satisfy the Office action mailed 22 March 2005. Copies of the notice of draftsperson's patent drawing review are enclosed for applicant's convenience.

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

This application remains **ABANDONED**.

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

Form PTO-948 (Rev. 06/01)
Application No. 11/007951

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 12/09/04 are:

A. ___ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. X objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).
___ Color drawings are not acceptable until petition is granted. Fig(s)___
___ Pencil and non black ink not permitted. Fig(s)___

2. PHOTOGRAPHS. 37 CFR 1.84(b)
___ One (1) full-tone set is required. Fig(s)___
___ Photographs may not be mounted. 37 CFR 1.84(e)
___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)___
___ Poor quality (half-tone). Fig(s)___

3. TYPE OF PAPER. 37 CFR 1.84(e)
___ Paper not flexible, strong, white, and durable. Fig(s)___
___ Erasures, alterations, overwritings. interlineations, folds, copy machine marks not accepted. Fig(s)___

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)
___ All drawing sheets not the same size. Sheet(s)___
___ Drawings sheets not an acceptable size. Fig(s)___

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm
___ Margins not acceptable. Fig(s)___
___ Top (T) ___ Left (L)
___ Right (R) ___ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)
REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.
___ Views not labeled separately or properly. Fig(s)___

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)
___ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)___

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)
___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)___

9. SCALE. 37 CFR 1.84(k)
___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)___

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)
___ Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s)___

11. SHADING. 37 CFR 1.84(m)
___ Solid black areas pale. Fig(s)___
X Solid black shading not permitted. Fig(s) 2 3/4

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. 37 CFR 1.84(p)
___ Numbers and reference characters not plain and legible. Fig(s)___
___ Figure legends are poor. Fig(s)___
___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)___
___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)___
___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)___

13. LEAD LINES. 37 CFR 1.84(q)
___ Lead lines missing. Fig(s)___

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)
___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)___

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)
___ Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s)___

16. DESIGN DRAWINGS. 37 CFR 1.152
___ Surface shading shown not appropriate. Fig(s)___
___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)___

COMMENTS:

Reviewer [signature]
If you have questions, call (703) 305-8404.

Date 10/3/06
Attachment to Paper No. ___

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

Form PTO-948 (Rev. 08/03)
Application No. 11/007951

U.S. DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office

NOTICE OF DRAFTSPERSON'S PATENT DRAWING REVIEW

The drawing(s) filed (insert date) 12/29/05 are:

A. ____ approved by the Draftsperson under 37 CFR 1.84 or 1.152.

B. X objected to by the Draftsperson under 37 CFR 1.84 or 1.152 for the reasons indicated below. Corrected drawings are required.

1. DRAWINGS. 37 CFR 1.84(a): Acceptable categories of drawings: Black ink or Color (3 sets required).

___ Color drawings are not acceptable until petition is granted. Fig(s)____

___ Pencil and non black ink not permitted. Fig(s)____

2. PHOTOGRAPHS. 37 CFR 1.84(b)

___ One (1) full-tone set is required. Fig(s)____

___ Photographs may not be mounted. 37 CFR 1.84(e)

___ Photographs must meet paper size requirements of 37 CFR 1.84(f). Fig(s)____

___ Poor quality (half-tone). Fig(s)____

3. TYPE OF PAPER. 37 CFR 1.84(e)

___ Paper not flexible, strong, ~~white, and durable.~~ Fig(s)____

X Erasures, alterations, overwritings, interlineations, folds, copy machine ~~marks not accepted~~. Fig(s) 12/29/05 no fig #

4. SIZE OF PAPER. 37 CFR 1.84(f): Acceptable sizes:
21.0 cm by 29.7 cm (DIN size A4) or
21.6 cm by 27.9 cm (8 1/2x 11 inches)

___ All drawing sheets not the same size. Sheet(s)____

___ Drawings sheets not an acceptable size. Fig(s)____

5. MARGINS. 37 CFR 1.84(g): Acceptable margins:
Top 2.5 cm Left 2.5 cm Right 1.5 cm Bottom 1.0 cm

___ Margins not acceptable. Fig(s)____

____ Top (T) ____ Left (L)
____ Right (R) ____ Bottom (B)

6. VIEWS. 37 CFR 1.84(h)
REMINDER: Specification may require revision to correspond to drawing changes, e.g., if Fig. 1 is changed to Fig. 1A, Fig 1B and Fig. 1C, etc., the specification, at the Brief Description of the Drawings, must likewise be changed.

X Views not labeled separately or properly. Fig(s) 1 →

7. SECTIONAL VIEWS. 37 CFR 1.84(h)(3)

___ Sectional designation should be noted with Arabic or Roman numbers. Fig(s)____

8. ARRANGEMENT OF VIEWS. 37 CFR 1.84(i)

___ Words do not appear on a horizontal, left-to-right fashion when page is either upright or turned so that the top becomes the right side, except for graphs. Fig(s)____

9. SCALE. 37 CFR 1.84(k)

___ Scale not large enough to show mechanism without crowding when drawing is reduced in size to two-thirds in reproduction. Fig(s)____

10. CHARACTER OF LINES, NUMBERS, & LETTERS. 37 CFR 1.84(l)

X Lines, numbers & letters not uniformly thick and well defined, clean, durable, and black (poor line quality). Fig(s) 12/29/05

11. SHADING. 37 CFR 1.84(m)

___ Solid black areas pale. Fig(s)____

___ Solid black shading not permitted. Fig(s)____

12. NUMBERS, LETTERS, & REFERENCE CHARACTERS. ~~37 CFR 1.84(p)~~

X Numbers and reference characters not plain and legible. Fig(s) overwriting

___ Figure legends are poor. Fig(s)____

___ Numbers and reference characters not oriented in the same direction as the view. 37 CFR 1.84(p)(1) Fig(s)____

___ English alphabet not used. 37 CFR 1.84(p)(2) Fig(s)____

___ Numbers, letters and reference characters must be at least 32 cm (1/8 inch) in height. 37 CFR 1.84(p)(3). Fig(s)____

13. LEAD LINES. 37 CFR 1.84(q)

___ Lead lines missing. Fig(s)____

14. NUMBERING OF SHEETS OF DRAWINGS. 37 CFR 1.84(t)

___ Sheets not numbered consecutively, and in Arabic numbers beginning with number 1. Sheet(s)____

15. NUMBERING OF VIEWS. 37 CFR 1.84(u)

X Views not numbered consecutively, and in Arabic numerals, beginning with number 1. Fig(s) 1

16. DESIGN DRAWINGS. 37 CFR 1.152

___ Surface shading shown not appropriate. Fig(s)____

___ Solid black surface shading is not permitted except when used to represent the color black as well as color contrast. Fig(s)____

COMMENTS: drawing Rec. on 12/29/05 - No fig #

Reviewer John

Date 10/17/06

If you have questions, call (703) 305-8404.

Attachment to Paper No. ____

☆ U.S. GOVERNMENT PRINTING OFFICE: 2003-300-153

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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DEC 0 8 2006

OFFICE OF PETITIONS

Hung Chang Lin
8 Schindler Ct.
Silver Spring, MD 20903

In re Application of	:	
FATHIMULLA, et al.	:	DECISION ON PETITION
Application No.: 11/007,951	:	
Filed: December 3, 2002	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: ET-11	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed November 9, 2006, 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 Notice to File Corrected Papers mailed March 22, 2005. Applicant's initial petition to revive was dismissed as the filed reply in the form of replacement drawings did not satisfy the concerns raised in the Office action mailed March 22, 2005.

The presently filed renewed petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of March 22, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Office of Initial Patent Examination (OIPE).

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Andreas Wittenstein	:	
Application No. 11/007,960	:	DECISION GRANTING PETITION
Filed: December 8, 2004	:	UNDER 37 CFR 1.137(b)
Atty Docket No. 026182-000110US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 2, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed May 5, 2005, which set a two month extendable period for reply. No reply having been received or extensions of time having been obtained pursuant to the provisions of 37 CFR 1.136(a), this application became abandoned on July 6, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that it is accompanied by (1) the reply (the filing fees required by the Notice of May 5, 2005);[1] (2) the $750 petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply to the Notice of May 5, 2005 is 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 forwarded to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] The petition was also accompanied by an Application Data Sheet.

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 F. Scalise
Wilson Greatbatch Technologies, Inc.
9645 Wehrle Drive
Clarence NY 14031

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DEC 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
FRUSTACI, et al.	:	
Application No. 11/007,974	:	DECISION GRANTING
Filed: December 9, 2004	:	37 CFR 1.10(c) PETITION
Attorney Docket No. 37505.0431	:	

This is a decision on the petition, filed December 15, 2005, requesting that the above-identified application be accorded a filing date of December 9, 2004, rather than the presently accorded date of December 8, 2004. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner alleges that the application was deposited in Express Mail Service on December 9, 2004. In support, the petition is accompanied by a copy of Express Mail receipt No. ER 600256020 US (the same Express Mail number found on the original application papers located in the official file) showing a "date in" of December 9, 2004.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label; MPEP 513. The evidence is convincing that the application was deposited as "Express Mail" with the U. S. Postal Service on December 9, 2004.

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

This application file is being referred to the Office of Initial Patent Examination (OIPE) **for processing with a filing date of December 9, 2004**. A corrected Filing Receipt has been mailed under separate cover.

Telephone inquiries relating to this decision should be directed Amelia Au at (571) 272-7414. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4100.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Paper No.

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

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Cluzel et al.	:	DECISION ON APPLICATION
Application No. 11/008,002	:	FOR
Filed: December 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 27373/40373	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 1.154(b)" filed August 1, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b)(3)(B)(i) be corrected from two hundred twenty-four (224) days to two hundred thirty (230) days.

The application for patent term adjustment is **DISMISSED**.

On July 16, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 224 days. On August 1, 2007, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants assert that the discrepancy (in the PTA calculation) appears to be a result of the PTO inadvertently calculating the term according to the receipt date of two responses filed, as opposed to the dates on the respective certificate of mailing.

[1] PALM records indicate that the Issue Fee payment was received on August 3, 2007.

Applicants state that this patent is not subject to a terminal disclaimer.

Applicants are incorrect. 37 CFR § 1.704(b) provides that:

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

In this regard, applicants' attention is directed to 37 CFR 1.703(f), which provides that "[t]he date indicated on any certificate of mailing or transmission under § 1.8 shall not be taken into account in this calculation" of patent term adjustment. See also, Comment 10, *Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 54366 (September 18, 2000). Accordingly, applicants' argument on application for patent term adjustment is not found persuasive.

The correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is two hundred twenty-four (224) days.

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

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated

on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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CARTER J. WHITE LEGAL DEPARTMENT
M-I L.L.C.
5950 NORTH COURSE DRIVE
HOUSTON, TX 77072

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NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Carrier et al. :
Application No. 11/008,009 :
Filed: December 9, 2004 :
Attorney Docket No. PA-00422US2 :
For: Electrical Treatment for Oil Based :
Drilling or Completion Fluids :

Decision According Status
Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 22, 2005.

The petition is **granted**.

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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APR 26 2007

OFFICE OF PETITIONS

CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS TX 75380

In re Application of	:	
Shibo Tang	:	
Application No. 11/008,010	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO WITHDRAW
Attorney Docket No. CACIP.00009	:	FROM RECORD
	:	

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 26, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Carstens & Cahoon, LLP has been revoked by the applicant of the patent application on January 31, 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: CHARLES E. BAXLEY
CHARLES E. BAXLEY, PC
90 JOHN STREET
THIRD FLOOR
NEW YORK, NY 10038-3243

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
11/008,010	12/09/2004	Shibo Tang	CACIP.00009

CONFIRMATION NO. 9368

OC000000023355401

OC000000023355401

22858
CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

Date Mailed: 04/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/008,010	12/09/2004	Shibo Tang	CACIP.00009

CONFIRMATION NO. 9368

OC000000023355506

OC000000023355506

CHARLES E. BAXLEY, ESQ.
90 JOHN STREET
SUITE 309
NEW YORK, NY 10037

Date Mailed: 04/12/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/31/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

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

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JAMES RAY & ASSOCIATES
2640 Pitcairn Road
Monroeville PA 15146

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OFFICE OF PETITIONS

In re Application of :
Ring, et al. :
Application No. 11/008,018 :
Filed: December 9, 2004 :
Attorney Docket No. CRD 01487 :
For: DISK BRAKE ARRANGED TMX

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed January 12, 2007, to withdraw the holding of abandonment.

The petition is **granted**.

The Office contended that the above-identified application became abandoned for failure to properly reply to the final Office action, mailed April 27, 2006, which set a three month extendable period for reply. Applicants filed an amendment on June 22, 2006 that failed to place the application in *prima facie* condition for allowance, as was explained in the July 10, 2006 Advisory Action. The Office has no record of receiving a follow-up submission. Therefore, the Office contended that this application became abandoned on July 28, 2006. A Notice of Abandonment was mailed on November 14, 2006.

Petitioners assert that a RCE and required fee were timely received in the Office on July 26, 2006. In support of this assertion, petitioners have provided a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination date stamp, citing July 26, 2006 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a RCE and a PTO-2038 form, authorizing the Office to charge a $790.00 filing fee.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on July 26, 2006. MPEP 503. Petitioners have provided a copy of the RCE filed on July 26, 2006. A review of Office financial records for this application reveals that a $790.00 fee was collected on accounting date July 28, 2006. Accordingly, the petition to withdraw the holding of abandonment is granted.

After the mailing of this decision, the application will be returned to Technology Center A.U. 3683 for consideration of the RCE filed on July 26, 2006.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

KENNETH W. ILES
LAW OFFICES OF KENNETH W. ILES
9903 WEST 129TH STREET
OVERLAND PARK KS 66213-3222

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SEP 14 2007

OFFICE OF PETITIONS

In re Application of

HURLEY, Edward P. et al.
Application No. 11/008,037
Filed: October 24, 2006
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 13, 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 Kenneth Iles. Applicant is reminded that there is no attorney of record at this time. There is an outstanding Office action mailed May 16, 2007 that requires a reply from the applicant.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **EDWARD P. HURLEY**
SECRETARY AND TREASURER
HEOW, INC.
1214 WESTERN PINE CIRCLE
SARASOTA, FL 34240

UNITED STATES PATENT AND TRADEMARK OFFICE

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THIAGARAJAN SARAVANAN
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WESTBOROUGH, MA 01581

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OFFICE OF PETITIONS

In re Application of	:	
Thiagarajan Saravanan	:	
Application No. 11/008,056	:	ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 10, 2005, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed January 31, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 1, 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
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Edward J. Timmer
P.O. Box 770
Richland, MI 49083

Mail Date: 04/21/2010

Applicant	: Jurgen Clauss	: DECISION ON REQUEST FOR
Patent Number	: 7651808	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,058	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1089** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Eaton Center
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MAR 26 2008

OFFICE OF PETITIONS

In re Application of	:	
Mills et al.	:	
Application No. 11/008,067	:	DECISION ON PETITION
Filed: 12/10/2004	:	
Attorney Docket No. 04-AE2-338	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 17, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 18, 2007. A Notice of Abandonment was mailed on December 11, 2007.

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

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

This application is being referred to Technology Center AU 2858 for appropriate action by the Examiner in the normal course of business on the reply received

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

PERKINS COIE LLP/MSFT
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OFFICE OF PETITIONS

In re Application of	:	
Levin et al.	:	
Application No. 11/008,083	:	ON APPLICATION FOR
Filed: December 9, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 418268103US	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT RECONSIDERATION UNDER 37 C.F.R. § 1.705(B) filed January 5, 2009. Applicants submit that the correct patent term adjustment is nine hundred thirty-five (935) days. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent[1].

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(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

[1] Applicants assert this calculation assuming the patent will issue on June 9, 2009.

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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PERKINS COIE LLP/MSFT
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Mail Date: 04/20/2010

Applicant	: Orit Levin	: DECISION ON REQUEST FOR
Patent Number	: 7577984	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,083	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1039** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	:	
Glen Gong, et al.	:	
Application No. 11/008,093	:	ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. 027417-000320US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 11, 2008, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 15, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is July 16, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

The petition is **GRANTED**.

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

This application is being referred to Technology Center AU 1656 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.

April M. Wise
Petitions Examiner
Office of Petitions

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SHAHAR AVNERI
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OFFICE OF PETITIONS

In re Application of
Shahar Avneri
Application No. 11/008,105
Filed: December 10, 2004
Title of Invention: SECURITY SYSTEM AND METHOD

DECISION ON PETITION

This is a decision on the petition filed July 19, 2006, under 37 CFR 1.137(a), to revive the above-identified application.

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

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

This application became abandoned on April 25, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed February 22, 2005, which set a two (2) month period for reply. Accordingly, the Notice of Abandonment was mailed June 6, 2006.

Petitioner asserts that the Notice to File Missing Parts was never received.

UNAVOIDABLE DELAY

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

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

issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks items (1), (2) and (3) above.

The fees paid upon application were in the amount of $245. However, the Notice to File Missing Parts indicated that an additional sum of $105 was needed to complete the search fee and examination fee. No such fees having been remitted and no extensions of time requested, this application became abandoned. With the instant petition to revive under 37 CFR 1.137(a), petitioner has included $130.00 for the petition fee. Petitioner is advised that pursuant to 37 CFR 1.17(l), the small entity fee for revival of an abandoned application is set at $250.00. The filing fees, which is the required response remain insufficient and as well, the petition fees are also insufficient.

With regard to item (3), decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

The showing of record is inadequate to establish unavoidable delay within the meaning

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[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). 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).

of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

Petitioner asserts that the Notice mailed February 22, 2005 was never received. A review of the record indicates no irregularity in the mailing of the Office action, 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 the failure to receive an Office action must include a statement from the inventor that the Office communication was not received and attesting to the fact that a search of the 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 petitioner's statement.[3]

Petitioner has not submitted additional evidence to corroborate the allegation of non-receipt. As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 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)[4],

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[2]Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[3]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).

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

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

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

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

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

which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b). A petition under 37 CFR 1.137 (b) also carries with it a petition fee of $750.00 for a small entity and $1500.00 for a large entity and the $250.00 petition fee paid with the instant petition cannot be credited towards the fee for the petition under 37 CFR 1.137(b), if petitioner chooses to file such.

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

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

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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In re Application of
Shahar Avneri
Application No. 11/008,105
Filed: December 10, 2004
Title of Invention: SECURITY SYSTEM AND METHOD

DECISION ON PETITION

This is a decision on the petition filed December 8, 2006 under 37 CFR 1.137(b)[1], to revive the above-identified application.

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

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

This application became abandoned on April 25, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed February 22, 2005, which set a two (2) month period for reply. Accordingly, the Notice of Abandonment was mailed June 6,

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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)).

2006. A petition filed July 19, 2006 under 37 CFR 1.137(a)[2] was dismissed in a decision mailed October 13, 2006 because the petition lacked the required reply, proper petition fees and a showing to the satisfaction of the Director that the entire delay in filing the required reply was unavoidable.

Petitioner was advised that the fee set forth in 37 CFR 1.17(l) was $250.00. The fee submitted with the petition was in the amount of $130.00. The petition filed was treated under the unavoidable standard even without the sufficient fees and there remains a balance of $120.00 on this account for the treatment of the petition to revive filed July 19, 2006, under 37 CFR 1.137(a). However, this application will receive no further treatment until such time as all fees have been satisfied.

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

By mail: Mail Stop Petitions
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P.O. Box 1450
Alexandria VA 22313-1450

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

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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[2]A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
(2) the petition fee as set forth in § 1.17(l);
(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

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OFFICE OF PETITIONS

In re Application of
Shahar Avneri
Application No. 11/008,105
Filed: December 10, 2004
Title of Invention: SECURITY SYSTEM AND METHOD

DECISION ON PETITION

This is a decision on the petition filed January 29, 2007 under 37 CFR 1.137(b)[1], to revive the above-identified application.

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

This application became abandoned on April 25, 2005, for failure to file a timely response to the Notice to File Missing Parts mailed February 22, 2005, which set a two (2) month period for reply. Accordingly, the Notice of Abandonment was mailed June 6, 2006. A petition filed July 19, 2006 under 37 CFR 1.137(a)[2] was dismissed in a

---

[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)).

[2]A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may

decision mailed October 13, 2006 because the petition lacked the required reply, proper petition fees and a showing to the satisfaction of the Director that the entire delay in filing the required reply was unavoidable. A request for reconsideration filed under 37 CFR 1.137(b) December 8, 2006 was dismissed in a decision mailed January 11, 2007 because all fees had not been submitted for the previous petition filed under 37 CFR 1.137(a).

Comes now petitioner with the appropriate petition fees. The response to the Notice to File Missing Parts having been previously provided, and 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;

(2) the petition fee as set forth in § 1.17(l);

(3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

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SEAN W. GOODWIN
222 PARKSIDE PLACE
602-12 AVENUE S.W.
CALGARY AB T2R 1J3 CA CANADA

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AUG 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Watson	:	
Application No. 11/008,107	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. 2286-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 16, 2006.

The request is **NOT APPROVED**.

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

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

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

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

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

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

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: Collin Watson
c/o Nilex Construction Inc..
1521 Hastings Cres S.E,
Calgary, Alberta T2G 4C8
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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May 24, 2006

MAY 30 2006

FOLEY AND LARDNER LLP
Suite 500
3000 K Street, NW
Washington, DC 20007

In re Application of:	TERAO ET AL.	:	
Application No.	11/008,132	:	NOTICE OF WITHDRAWAL
Filed:	12/10/04	:	FROM ISSUE
Attorney Docket No.	016907-1787	:	UNDER 37 CFR 1.313
		:	

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed October 6, 2005 are hereby vacated.

The application is being withdrawn to permit reopening of prosecution for the application of pertinent prior art to the claimed invention.

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 Supervisory Patent Examiner Drew Hirshfeld at (571) 272-2168.

Arthur Grimley, Director
Technology Center 2800

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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Greg Adams et al.
Application No. 11/008,150
Filed: December 10, 2004
Attorney Docket No. 262111US8

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

This is in response to the petition filed June 7, 2005 under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on December 10, 2004, naming Greg Adams, Peter Cordell, Steven Gareth Davies, Steven Gray, Steven Reed and Barry Scott as joint inventors but without a signed declaration. Accordingly, on February 7, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring a properly executed oath or declaration.

In response, an oath or declaration executed by joint inventors Adams, Cordell and Gray only and a petition under 37 CFR 1.47(a) was filed. The petition argues that joint inventor Davies refuses to execute the oath or declaration and that joint inventors Reed and Scott are "unlocatable".

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

The petition bears proof that Mr. Davies expressly refused to execute the oath or declaration and that while the complete application was mailed to joint inventors Reed and Scott, to date, neither has returned and executed copy of the oath or declaration. As no evidence to the contrary has been provided, the mailing of the application papers to the last known address will be construed to indicate that the joint inventors have been located but that by their actions, they chose not to cooperate with the filing of the application.

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

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

Additionally, petitioner is advised that effective November 22, 2004, the petition fee was increased from $130.00 to $200.00. Petitioner's deposit account has been charged $70.00 to make up the difference between that which was paid and that which was due. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

The application is being forwarded to Technology Center 2131 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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STEVEN REED
6 QUEENS COURT
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GORING ON THAMES
READING
RG8 0EW
UK

BARRY SCOTT
8 CHELSEA COURT
TILHURST
READING
RG30 6EP
UK

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JUN 21 2005

OFFICE OF PETITIONS

In re Application of
Greg Adams et al.
Application No. 11/008,150
Filed: December 10, 2005
For: COMMUNICATION SYSTEMS FOR TRAVERSING FIREWALLS AND NETWORK ADDRESS TRANSLATION (NAT) INSTALLATIONS

Dear Mr. Davies, Mr. Reed and Mr. Scott:

You are named as joint inventors 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 joint inventors.

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

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/008,150	12/10/2004	Greg Adams	262111US8	1210

22850 7590 04/02/2009
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1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
CERVETTI, DAVID GARCIA

ART UNIT	PAPER NUMBER
2436	

NOTIFICATION DATE	DELIVERY MODE
04/02/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

DOCKET NO: 262111US8

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF	:
GREG ADAMS, ET AL.	: EXAMINER: CERVETTI, D.G
SERIAL NO: 11/008,150	:
FILED: DECEMBER 10, 2004	: GROUP ART UNIT: 2436
FOR: COMMUNICATION SYSTEMS FOR TRAVERSING FIREWALLS AND NETWORK ADDRESS TRANSLATION (NAT) INSTALLATIONS	:

PETITION UNDER 37 CFR §1.181 TO ACCOMPANY RESPONSE TO REQUIREMENT

FOR INFORMATION UNDER 37 CFR §1.105

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

This petition is in response to the Official Communication mailed on July 31, 2008.

This petition under 37 CFR §1.181 requests that the requirement under 37 CFR §1.105 be withdrawn as improper. The requirement states:

> An issue of public use or on sale activity has been raised in this application. In order for the examiner to properly consider patentability of the claimed invention under 35 U.S.C. 102(b), additional information regarding this issue is required as follows: "Tandberg 550", "Tandberg 1000", "Tandberg 2500", "Tandberg 6000", and any other Tandberg products that may have implemented the invention. Manuals and Administrator manuals are respectfully requested.[1]

[1] Requirement for Information, page 2 of the Office Action mailed July 31, 2008.

Applicant notes that a proper request under 37 CFR §1.105 is a request for factual information, which is reasonably necessary to properly examine or treat a matter in a pending or abandoned application. In this regard, the MPEP notes that:

> "Factual" and "facts" are included in 37 C.F.R. § 1.105 to make it clear that it is facts and factual information, that are known to Applicant, or readily obtained after reasonable inquiry by application, that are sought, and that requirements under 37 C.F.R. § 1.105 are not requesting opinions that may be held or would be required to be formulated by applicant. (emphasis added)

The "invention" is defined by the claims, and the meaning of the claims is a legal issue. The formulation of such legal opinion or provision of such, if held, is an improper request under 37 C.F.R. §1.105.

A requirement for information under 37 CFR §1.105 places a substantial burden on the Applicant.[2] In this regard, the MPEP notes that:

> The criteria stated in 37 CFR 1.105 for making a requirement for information is that the information be reasonably necessary to the examination or treatment of a matter in an application.
>
> * * * *
>
> The criteria of reasonable necessity is generally met, e.g., where:
>
> (A) the examiner's search and preliminary analysis demonstrates that the claimed subject matter cannot be adequately searched by class or keyword among patents and typical sources of non-patent literature, or
>
> (B) either the application file or the lack of relevant prior art found in the examiner's search justifies asking the applicant if he or she has information that would be relevant to the patentability determination.
>
> The first instance generally occurs where the invention as a whole is in a new area of technology which has no patent classification or has a class with few pieces of art that

[2] MPEP §704.11.

> diverge substantially from the nature of the claimed subject matter. In this situation, the applicant is likely to be among the most knowledgeable in the art, as evidenced by the scarcity of art, and requiring the applicant's information of areas of search is justified by the need for the applicant's expertise.
>
> The second instance generally occurs where the application file, or other related applications or publications authored by the applicant, suggests the applicant likely has access to information necessary to a more complete understanding of the invention and its context. In this situation, the record suggests that the details of such information may be relevant to the issue of patentability, and thus shows the need for information in addition to that already submitted by the applicant.

The present request for information is not reasonable as it does not satisfy the above-noted criteria. There has been no demonstration that the claimed subject matter cannot be adequately searched. Moreover, the Office has not informed Applicant that the invention is in an area of technology without a classification, nor has the Office indicated that there is a lack of relevant prior art.

The Examiner has been able to reasonably examine the application and the present requests are not reasonably necessary to further examine the application.

Furthermore, the broad language in the request, such as "any other" makes the request particularly burdensome, and is not reasonably necessary to examine the present application.

Furthermore, the Office Action alleges that an issue of public use or sale has been raised, without providing any evidence to support such an allegation. A requirement for information may only be made when the Examiner has a *reasonable basis* for requiring information.[3]

[3] MPEP §704.11.

Accordingly, Applicant respectfully submits that this request for information is improper. It is respectfully submitted that this Petition under 37 CFR §1.181 be granted and that the Examiner withdraw his requirement for information under 37 CFR §1.105.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

Bradley D. Lytle
Attorney of Record
Registration No. 40,073

Joseph Wrkich
Registration No. 53,796

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220
(OSMMN 08/07)
I:\ATTY\JW\262111US\262111US_PET.DOC

CLAIMS

We claim:

1. A method for collaborative arbitration of polling results in a collaborative environment, the method comprising:

placing a poll within a message and sending the message to a select group of collaborators in the collaborative environment;

receiving poll results from a collaborator in the select group in a reply to the message;

extracting the poll results from the reply and placing the poll within a new message along with the extracted poll results; and,

sending the new message to the select group.

2. The method of claim 1, further comprising:

receiving additional poll results from another collaborator in the select group in a reply to the new message;

extracting the additional poll results from the reply to the new message;

aggregating the additional poll results with existing poll results for the poll to produce an aggregated set of poll results;

placing the poll within an even newer message along with the aggregated set of poll results; and,

sending the even newer message to the select group.

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APR 01 2009

TECHNOLOGY CENTER 2100

Bradley D. Lytle
Oblon, Spivak, McClelland Maier & Neustadt.P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:	)	
Greg Adams, et al.	)	
Application No. 11/008,150	)	**DECISION ON PETITION TO**
Filed: December 10, 2004	)	**WITHDRAW THE 37 CFR 1.105**
For: Communication systems for traversing	)	**REQUIREMENT FOR**
firewalls and network address translation	)	**INFORMATION**
(NAT) installations	)	

This is a decision on the petition, filed on 31 December 2008, under 37 CFR 1.181 to withdraw the requirement for information under 37 CFR 1.105.

On July 31, 2008, the Examiner requested additional information on "Tandberg 550", "Tandberg 1000", "Tandberg 2500", "Tandberg 6000" , and any other Tandberg products regarding an issue of public use or on sale activity for properly considering patentability of claimed invention under 35 U.S.C. 102 (b) along with manuals and administrator manuals.

In support of the petition, petitioner stated that there has been no demonstration that the claimed subject matter cannot be adequately searched, the petitioner has not been informed that the invention is in an area of technology without a classification and that there is a lack of relevant prior art. Petitioner stated that the Examiner does not have a reasonable basis for requiring the information to further examine the application since the Examiner has been able to reasonably examine the application. Furthermore, petitioner stated that there are no evidence to support the allegation of an issue of public use or sale has been raised in the office communication mailed on July 31, 2008 and the request is asking for a legal opinion by asking for information drawn to the claimed invention. Legal opinions are not facts and rule 105 requirements can only ask for facts

Based on the criteria in 37 CFR 1.105 and MPEP 704.11, and the above stated reasons, the petition is **GRANTED**.

Any question concerning this decision should be directed to Tod Swann at 571-272-3612.
The application is being forwarded to the examiner for appropriate action.

Timothy Callahan
Director, Technology Center 2400

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C. Irvin McClelland
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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NOV 0 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Jung Ho Kim	:	
Application No. 11/008,152	:	DECISION ON PETITION
Filed: October 25, 2006	:	TO WITHDRAW
Attorney Docket No. 262792US8	:	FROM RECORD
	:	

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 7, 2006.

The request is **APPROVED**.

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

The request was signed by C. Irvin McClelland on behalf of all attorneys of record who are associated with Customer No. 22850.

All attorneys/agents associated with the Customer No. 22850 have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

Terri Williams
for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mr. Jung Ho Kim**
205 Woosin Gangbyeon, Dongbon-ri,
Yecheon-eup, Yecheon-gun,
Kyungsangbukdo
Republic of Korea

cc: **KBK & Associates**
15th Floor, YoSam Building, 648-23,
Yeoksam-dong
Kangnam-ku,
Seoul 15-748
Republic of Korea

cc: **Dongbu Electronics Co., Ltd.**
Dongbu Electronics A1-Dong (FAB-Dong)
5th Floor, Technical Alliance (T/A) Team
Dodang-Dong 221-1, Wonmi-ku, Bucheon-Si
Kyunggi-Do, 420-807 Korea

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/008,152	12/10/2004	Jung Ho Kim	262792US8

CONFIRMATION NO. 1229

OC000000020978818

OC000000020978818

22850
C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

Date Mailed: 10/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/07/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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FOLEY AND LARDNER LLP
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3000 K STREET NW
WASHINGTON DC 20007

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AUG 26 2009

OFFICE OF PETITIONS

In re Patent No. 7,376,422
Issued: May 20, 2008
Application No. 11/008,176
Filed: December 10, 2004
Attorney Docket No.: 045054-0161

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the Petition under 37 C.F.R. 1.183, requesting that the Office suspend the rules and consider on the merits a Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) filed more than two months from the date the above-referenced patent issued; and on the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d), all of which were filed on November 17, 2008.

The petition under 37 CFR 1.183 is **dismissed**.

The request for reconsideration of patent term adjustment under 37 CFR 1.705(d) is **dismissed as untimely filed**.

Any request for reconsideration, whether directed to the decision on petition under 37 CFR 1.183 or to the decision on application for patent term adjustment under 37 CFR 1.705(d), must be filed within two months of the mailing date of this decision. Extensions of time under 37 CFR 1.136 are not permitted. See § 1.181(f).

BACKGROUND

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,376,422, with a revised patent term adjustment of 331 days. No request for reconsideration of the patent term adjustment indicated in the patent was filed within two months of the date the patent issued. Patentee now petitions under 37 C.F.R. § 1.183 to (i) suspend or waive the requirement of 37 C.F.R. § 1.705(d) that a Request for Reconsideration of Patent Term Adjustment be filed within two months of the date the patent issued; and (ii) consider the enclosed Request for Reconsideration of Patent Term Adjustment. Patentee makes this request, "in view of the extraordinary situation

presented by the recent decision in *Wyeth v. Dudas*, No. 07-1492 (D.D.C. Sept. 30, 2008)."

ON PETITION UNDER 37 CFR 1.183
TO WAIVE THE TWO-MONTH REQUIREMENT OF 37 CFR 1.705(d)

The above-referenced patent issued on May 20, 2008. A request for reconsideration of the patent term adjustment indicated in the patent was not filed until November 17, 2008. Petitioner requests that the Office suspend the rules and consider on the merits the Request for Reconsideration of Patent Term Adjustment under 37 C.F.R. 1.705(d) even though it was untimely filed more than two months from the date the patent issued.

The relevant regulation, 37 CFR 1.705(d), provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, *any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued* and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues. (*emphasis* added).

By the express provisions of 37 CFR 1.705(d), a request for reconsideration of patent term adjustment must be filed within two months of the date the patent issued. It is undisputed that no such request for reconsideration was filed by July 20, 2008, the date two months from the date this patent issued, May 20, 2008. Rather, on November 17, 2008, nearly two months after the issuance of a decision in Wyeth v. Dudas on September 30, 2008, petitioner filed the instant request for waiver of the two-month requirement.
37 CFR 1.183 provides that:

> In 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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(f).

Preliminarily, it is recognized that the two-month requirement of 37 CFR 1.705(d) is a requirement of the regulations and not a statutory requirement. The statute, 35 U.S.C. 154, requires the Office to provide the applicant one opportunity to request reconsideration of any patent term adjustment determination made by the Director. But, the statute allows the Director to establish the procedures for requesting such reconsideration. Those procedures[1] include pursuant to 37 CFR 1.705(d) setting a two-month period for filing a request for reconsideration of the revised patent term adjustment indicated in the patent. As such, it is within the Director's authority to waive the two-month requirement.

Having considered petitioner's arguments, it is concluded that waiver of the two-month requirement is not warranted. The primary basis for requesting waiver set forth by petitioner is "the extraordinary situation presented by the recent decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. Sept. 30, 2008)."

Specifically, petitioner states that the basis for this petition is due to a case decided by the United States District Court for the District of Columbia on September 30, 2008, whereby that date is more than two months and less than six months with respect to the patent issuance date of the above-identified patent.

In Wyeth, the U.S. District Court for the District of Columbia held that contrary to USPTO practice, a patentee is entitled to Patent Term Adjustment credit for examination delay under 37 CFR 1.702(b) in addition to any examination delay under 37 CFR 1.702(a), to the extent that the two periods of delay "do not occur on the same calendar day or days."

---

[1] 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

Petitioner argues that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent.

First, of all, the issuance of the Wyeth Opinion is not an extraordinary situation. Wyeth followed the procedure set forth in 37 CFR 1.705 for requesting reconsideration of the patent term adjustment determination. Then, pursuant to 35 U.S.C. 154(b)(4)(A)[2], Wyeth timely filed a complaint in District Court seeking judicial review of the Office's decision. A Memorandum Opinion and Order, the Wyeth decision of September 30, 2008, directed to the parties involved was issued.

The fact that any relief ultimately granted in Wyeth would benefit patentee had they timely filed a request for reconsideration does not make the situation extraordinary. Petitioner chose not to challenge their revised patent term adjustment within the two-month period. Petitioner's argument that they could not have filed a Request for Reconsideration of Patent Term Adjustment within two months of the date the above-referenced patent issued because the basis for the Request for Reconsideration of Patent Term Adjustment is the Wyeth decision, which was entered more than two months after the issuance of their patent, is not compelling. Petitioner could have filed a Request for Reconsideration of Patent Term Adjustment as Wyeth did. It is acknowledged that petitioner may have chose not to file a request for reconsideration based on a conclusion that the Office's interpretation of 35 U.S.C. § 154(b)(2)(A) was correct. Nonetheless, the fact that the District Court has now issued an Opinion contrary to the Office's interpretation does not make the situation extraordinary. This is not unlike any other situation where a patentee (or applicant) challenges a final agency decision and the decision upon judicial review could have had applicability to another patentee (or applicant) had they taken such action. In fact, many patentees may be in the same situation as petitioner with respect to the Wyeth decision.

Petitioner simply fails to articulate how their failure to file a request for reconsideration of patent term adjustment within two months of the issue date of the patent was due to an extraordinary situation. Petitioner cannot rely on Wyeth's actions or the Wyeth decision to establish that their situation was extraordinary.

---

[2] 35 U.S.C. 154(b)(4) (A) APPEAL OF PATENT TERM ADJUSTMENT DETERMINATION. – (A) An applicant dissatisfied with a determination made by the Director under paragraph (3) shall have remedy by a civil action against the Director filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent. Chapter 7 of title 5 shall apply to such action. Any final judgment resulting in a change to the period of adjustment of the patent term shall be served on the Director, and the Director shall thereafter alter the term of the patent to reflect such change.

Moreover, justice does not require waiver of the two-month requirement. Justice requires that the Office continue to devote its resources to the adjudication of timely filed requests for reconsideration under 37 CFR 1.705(b) and (d). Further, upon ultimate resolution of the interpretation of 37 CFR 1.702, justice requires that the Office determine consistent with relevant law and practice, and appropriate Court or legislative guidance, the applicability of any changes as to all affected patentees who failed to timely seek administrative remedy, and thus, could not seek judicial review.

In view thereof, the petition under 37 CFR 1.183 for waiver of the two-month requirement of 37 CFR 1.705(d) is **DISMISSED**.

Accordingly, consideration now turns to the Request for Reconsideration of Patent Term Adjustment under 37 CFR 1.705(d).

ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705," filed November 17, 2008. Therein, patentee requests correction of the patent term adjustment (PTA) indicated in the patent to four hundred ninety-three (493) days.

On May 20, 2008, the above-identified application matured into U.S. Patent No. 7,376,422 with a revised patent term adjustment of 331 days. The instant request for reconsideration was filed more than two months after the issuance of the patent, on November 17, 2008.

No error in the printing of the patent has been shown. The patent term adjustment indicated on the patent reflects the Office's determination of patent term adjustment shown in the PAIR system for this application. 37 CFR 1.705(d) provides the sole avenue before the Office for requesting reconsideration of the Office's determination of patent term adjustment indicated in the patent. Moreover, § 1.705(d) states that "any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section." Since the request was not filed within two months of the issue date of the patent, the request is properly **dismissed as untimely filed**.

CONCLUSION

It is determined that waiver of the requirement pursuant to 37 CFR 1.183 is not warranted. Accordingly, the request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) filed more than two months after the issue date of the patent is dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). Petitioner is advised however that the fee for a petition under 37 CFR 1.183 to suspend the rules is set at $400.00, not $130.00 as was indicated in the Fee Transmittal. Thus, petitioner's deposit account no. 19-0741 has been charged in the amount of $270.00 to make up the difference between that which was charged and that which is due.

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

Christina Tartera Donnell for

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Toshiyuki SASAKI	:	
Application No. 11/008,177	:	DECISION ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 05225.0274	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed June 15, 2007, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 17, 2007.

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

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6535.

This application is being referred to Technology Center AU 2822 for appropriate action by the Examiner in the normal course of business on the reply received November 13, 2007.

April Wise
Petitions Examiner
Office of Petitions

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3000 K STREET NW
SUITE 500
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:
Yasunobu Terao et al	:
Application No. 11/008,199	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016907-1790	:

This is a decision on the petition, filed June 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on July 13, 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\june10\008199

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

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OFFICE OF PETITIONS

In re Application of
Naoto Iwakiri
Application No. 11/008,211
Filed: December 10, 2004
Attorney Docket Number: Q85253
Title of Invention: Solid State Detector and Method of Manufacturing Same

ON PETITION

This is a decision on the petition filed April 7, 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 December 19, 2005. The Notice of Allowance and Fee (s) Due set a three (3) month statutory period for reply. Extensions of time were not available under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 20, 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
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

5/22/07

In re Application of:
MUNOZ, JESUS FRANCO
Serial No. 11/008,218
Filed: Dec. 10, 2004
Docket: 120948-00101
Title: MULTIPURPOSE AMUSEMENT MACHINE

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed May 15, 2007 under 37 CFR 1.181 requesting withdrawal of the finality of the last Office action mailed Apr. 24, 2007.

The petition is **Granted.**

In finding petitioner's points of argument persuasive, the requested relief is granted. The finality of the last Office action mailed Apr. 24, 2007 is hereby withdrawn. The examiner has been instructed to issue an Office action not inconsistent with this decision.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856 or Marc Jimenez, Training Quality Assurance Specialist, at (571)-272-4530.

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Nobuhiro Aihara	: DECISION ON REQUEST FOR
Patent Number	: 7639377	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,223	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1418** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :
Naoki Hayashida, et al. :
Application No. 11/008,228 : DECISION ON PETITION
Filed: December 10, 2004 : TO MAKE SPECIAL
For: **METHOD OF TESTING AN INFORMATION RECORDING MEDIUM AND AN INFORMATION RECORDING MEDIUM TESTING APPARATUS** :

This is a decision on the petition filed August 1, 2005 under Manual of Patent Examination Procedure §708.02,VIII requesting accelerated examination.

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

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

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

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON VA 22209-3873

In re Application of	:	
Yoshihide Yamaguchi	:	
Application No.11/008,243	:	DECISION GRANTING PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 843.44559X00	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 28, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 23, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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OFFICE OF PETITIONS

In re Application of	:	
Yasunobu Terao, et al.	:	
Application No. 11/008247	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No.: 016907-1771	:	

This is a decision on the petition, filed September 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on August 1, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2854 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
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P.O. Box 1450
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Date : September 5, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Yasunobu Terao, et al.
Application No. : 11/008,247
Filed : December 10, 2004

The above-identified application has been assigned Patent No. 7,107,005 and an issue date of September 12, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 12, 2006:

> "All reference to Patent No. 7,107,005 to YASUNOBU TERAO, ET AL. of JAPAN for SHEET POST-PROCESS APPARATUS AND WAITING TRAY appearing in the Official Gazette of September 12, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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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ARENT FOX LLP
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WASHINGTON, DC 20036

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OFFICE OF PETITIONS

In re Patent No. 7,442,758	:	
Issue Date: October 28, 2008	:	
Application No. 11/008,250	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 101175-00059	:	

This is a decision on the petition filed February 17, 2009, under 37 CFR 3.81(b)[1] to correct the assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

03/16/2009 CKHLOK 00000014 7442758

01 FC:1464 130.00 OP
02 FC:1811 100.00 OP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Adjustment date: 03/16/2009 CKHLOK
02/18/2009 INTERSW 00000929 11008250
01 FC:1464 -130.00 OP
02 FC:1811 -100.00 OP

Hiroshi UEMACHI et al

Patent No.: 7,442,758 B2

Atty. Docket No.: 101175-00059

Issued: October 28, 2008

For: POLYMER COMPOUND FOR USE IN ELECTRODE MATERIAL, ELECTRODE USING THE SAME AND NONAQUEOUS SOLUTION BATTERY USING THE SAME

PETITION TO ACCEPT REQUEST FOR CERTIFICATE OF CORRECTION UNDER 37 C.F.R. 1.183

Mail Stop: PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

February 17, 2009

Sir:

Petition is hereby made, under 37 C.F.R. 1.183, to waive the requirements of 37 C.F.R. 3.81 and to accept the filing of the attached Request for Certificate of Correction Under 37 C.F.R. 1.323 and issue a Certificate of Correction for the above-identified patent.

The Certificate of Correction is necessary to correct the Assignee information on the Letters Patent. The Assignees for the subject patent should read -- Polythione Co., Ltd., Ishikawa, Japan and Honda Motor Co., Ltd., Tokyo, Japan --. At the time of paying the Issue Fee, the Assignee information was incorrectly typed on the Issue Fee Transmittal through an inadvertent error without deceptive intent. This correction to the Letters Patent is as a result of the assignment of Sensa Corporation's undivided partial right, title and interest to Polythione Co., Ltd. In support of this request, copies of the Notice of Recordation, Assignment transmittal and Assignment which were recorded on December 28, 2007, at Reel 020330, Frame 0838, are attached. It is respectfully requested that the requirements of 37 C.F.R. 3.81 be waived, that the filing of the

attached Request for Certificate of Correction under 37 C.F.R. 1.323 be accepted and that a Certificate of Correction for the above-identified patent be issued to correct this error.

Payment by credit card in the amount of One Hundred Thirty Dollars ($130.00) is submitted. The Commissioner is hereby authorized to charge any additional fees which may be due or credit any over-payment to Deposit Account No. 01-2300, referencing Atty. Docket No. 101175-00059.

Respectfully submitted,

George E. Oram, Jr.
Reg. No. 27,931

Atty. Docket No.: 101175-00059

Customer No.: 004372
Arent Fox LLP
1050 Connecticut Avenue, N.W.
Suite 400
Washington, D. C. 20036-5339
Tel (202) 857-6000
Fax (202) 638-4810

GEO:mmg

Enclosures: Copy of the Recorded Assignment with Notice of Recordation; Request for Certificate of Correction and Form PTO 1050

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SUITE 500
WASHINGTON, DC 20007

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OFFICE OF PETITIONS

In re Application of	:
Yasunobu Terao et al	:
Application No. 11/008,294	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016907-1780	:

This is a decision on the petition, filed June 6, 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 4, 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 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

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

In re Application of Kashima, Hiroaki Serial No.: 11/008,297 Filed: Dec. 10, 2004 Docket: 107350-00011 Title: GAMING MACHINE AND CONTROL METHOD OF GAMING MACHINE	DECISION ON PETITION TO WITHDRAW FINALITY OF REJECTION AS PREMATURE UNDER 37 CFR § 1.181

This is a decision on the petition filed on Nov. 19, 2007 by which petitioner requests withdrawal of the finality of the Office Action dated Oct. 25, 2007. The petition is considered pursuant to 37 CFR § 1.181, and no fee is required.

The petition is granted.

Petitioner requests that the finality of the office action mailed Oct. 25, 2007 be withdrawn because no amendment by the Applicant necessitated a further search of the prior art and the reference newly identified and applied by the Examiner could have been identified in the original search and applied in the first Office Action.

In regard to the finality of the office action, the rejection of at least claims 1 and 8, Schibetta (US Pat. 7,168,705) was not necessitated by the amendment filed on Aug. 7, 2007. It is noted that claims 1 and 8 were not amended substantively and the treatment of the claims with regard to the structure of the device and the control process of the gaming machine did not change. As such, the Oct. 25, 2007 final office action is premature and thus the finality of the action is hereby withdrawn. The period to respond to the Office action of Oct. 25, 2007 remains unchanged. Since the finality is being withdrawn, an amendment responding to the Office action dated Oct. 25, 2007 will be treated as a 37 CFR § 1.111 amendment.

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

PETITION GRANTED.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:
Yasunobu Terao et al	:
Application No. 11/008,299	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016907-1775	:

This is a decision on the petition, filed June 6, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 1, 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 3651 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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THE SONI LAW FIRM
55 S LAKE AVE SUITE 720
PASADENA CA 91101

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OFFICE OF PETITIONS

In re Application of	:	
Dilip Bhavnani	:	
Application No. 11/008,304	:	ON PETITION
Filed: December 8, 2004	:	
Attorney Docket No. SS 213	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 11, 2006

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

The above application became abandoned for failure to timely file a proper response to the Notice of Noncompliant Amendment mailed September 23, 2005, which set a shortened statutory period for reply of one (1) months. No extensions of time under 37 CFR 1.136(a) were purchased. Accordingly, the application became abandoned on October 24, 2005. A Notice of Abandonment was mailed on April 27, 2006.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an amendment.

The matter is being forwarded to Group Art Unit 2876 for consideration of the amendment filed July 11, 2006.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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PEACOCK MYERS, P.C.
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

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JUL 29 2005

OFFICE OF PETITIONS

In re Application of
Wagenaar, et al.
Application No. 11/008,318
Filed: December 9, 2004
Atty. Dkt. No.: 30394-1136
For: METHOD FOR THE PYROLYSIS OF A PYROLYSABLE MASS

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed April 14, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed December 9, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed January 11, 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 requirement (1) set forth above. The petition alleges that the non-signing inventor orally refused to execute a declaration. The petition further alleges

the non-signing inventor thereafter was sent a declaration and power of attorney, and that, to date, no response has been received.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that a *bona fide* effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor at the non-signing inventor's last known address, typically a residential address. Herein, it appears that the inventor did not receive a complete copy of the application papers (specification, including claims, drawings, and oath or declaration).

Any renewed petition must establish that the non-signing inventor received a complete copy of the application papers and thereafter refused to execute the oath or declaration.

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

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

By facsimile: (571) 273-8300

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

Telephone inquiries 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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OFFICE OF PETITIONS

PEACOCK MYERS, P.C.
P O BOX 26927
ALBUQUERQUE, NM 87125-6927

In re Application of	:
Wagenaar, et al.	: DECISION NOTING JOINDER OF
Application No. 11/008,318	: INVENTOR AND PETITION UNDER
Filed: December 9, 2004	: 37 CFR 1.47(a) MOOT
Atty. Dkt. No.: 30394-1136	:
For: METHOD FOR THE PYROLYSIS	:
OF A PYROLYSABLE MASS	:

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

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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GENENCOR INTERNATIONAL, INC.
ATTENTION: LEGAL DEPARTMENT
925 PAGE MILL ROAD
PALO ALTO, CA 94304

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OFFICE OF PETITIONS

In re Application of
David A. Estell
Application No. 11/008,331
Filed: December 8, 2004
Attorney Docket No. GC386-US-D1C2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed August 9, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before June 7, 2007. A Notice of Abandonment was mailed on July 3, 2007. On August 9, 2007, the present petition was filed.

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

The application is being referred to the Office of Publications 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 at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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Lowrie, Lando & Anastasi, LLP
One Main Street, Suite 1100
Cambridge, MA 02142

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DEC 19 2007

OFFICE OF PETITIONS

In re Application of	:	
David Gloth	:	
Application No. 11/008,332	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO WITHDRAW
Attorney Docket No. D2001-700230	:	FROM RECORD
	:	

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 19, 2007.

The request is **APPROVED**.

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

The request was signed by Peter C. Lando 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 David Gloth at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **David Gloth**
16 Harcourt Street
Apt. 61
Boston, MA 02116

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/008,332	12/09/2004	David Gloth	D2001-700230

CONFIRMATION NO. 1148

37462
LOWRIE, LANDO & ANASTASI, LLP
ONE MAIN STREET, SUITE 1100
CAMBRIDGE, MA 02142

POWER OF ATTORNEY NOTICE

OC000000027355665

Date Mailed: 12/18/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/19/2007.

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

/tswilliams/

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

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Stefan Auth	: DECISION ON REQUEST FOR
Patent Number	: 7637929	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,343	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

ROBERT DEBERARDINE
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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OCT 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Hackett et al.	:	DECISION ON PETITION
Application No. 11/008,351	:	
Deposited: December 9, 2004	:	
Atty Docket No. 6165USD1	:	

This is a decision on the "PETITION TO INCORPORATE BY REFERENCE UNDER 37 CFR §1.57," filed June 15, 2005, requesting that the above-referenced application be accorded a filing date of December 9, 2004.

Application papers in the above-identified application were deposited on December 9, 2004. However, on April 18, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings.

In response, applicants timely filed this petition. In which, applicants acknowledge inadvertently omitting figures 1-23, all of the drawing figures in the application, on filing. However, applicants contend that this application should receive the benefit of the earlier filing date of parent application Serial No. 08/911,824 as the evidence clearly establishes that this application is intended to be a divisional application of

application No. 08/911,824, pursuant to MPEP 201.06(c) and 201.11 and 37 CFR 1.78.

In support thereof, applicants do not point to an incorporation by reference statement or a claim for priority present in the application on filing. In fact, a review of the application as filed does not establish that either was present in the application on filing. Rather, applicants submit a preliminarily amendment including the claim for priority on filing of this petition.

On September 21, 2004, § 1.57 was added to read, in pertinent part that:

> (a) Subject to the conditions and requirements of this paragraph, if all or a portion of the specification or drawing(s) is inadvertently omitted from an application, but the application contains … a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under … § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).
>
> (1) The application must be amended to include the inadvertently omitted portion of the specification or drawing(s) within any time period set by the Office, but in no case later than the close of prosecution as defined by § 1.114(b), or abandonment of the application, whichever occurs earlier;
>
> (3) If an application is not otherwise entitled to a filing date under § 1.53(b), the amendment must be by way of a petition pursuant to this paragraph accompanied by the fee set forth in § 1.17(f).

However, as the application as filed included neither a claim under 1.78 for the benefit of prior-filed application No. 08/911,824 or an incorporation by reference statement, no relief

under 1.57(a) is warranted. It is undisputed that the application as filed did not include drawings.

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

Accordingly, the application is not entitled to a filing date of December 9, 2004 with drawings present in the application.

However, petitioner requests alternatively that the application not be accorded a filing date after December 9, 2004, and that applicants be permitted to delete all references to the figures in the specification.

In this regard, petitioner's attention is directed to MPEP 601.01(f), which provides that:

> 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).

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

CONCLUSION

To the extent that the instant petition requests a filing date of December 9, 2004 with drawings present in the application, the petition is **DISMISSED**. The fee for consideration under § 1.57(a) is required and will not be refunded.

The preliminary amendment filed June 15, 2005 will not be entered.

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 §1.136(a) are not permitted. See § 1.181(f).

To the extent the instant petition requests a filing date of December 9, 2004 with no drawings present in the application, the petition is **GRANTED**.

A preliminary amendment deleting all references to the drawing figures should be filed prior to the first Office action on the merits.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to December 9, 2004** and **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

ROBERT DEBERARDINE
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100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

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FEB 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Hackett et al.	:	DECISION ON PETITION
Application No. 11/008,351	:	
Deposited: December 9, 2004	:	
Atty Docket No. 6165USD1	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PETITION TO INCORPORATE BY REFERENCE UNDER 37 CFR §1.57," filed December 19, 2005, requesting that the above-referenced application be accorded a filing date of December 9, 2004. Petitioner further requests an interview.

Preliminarily, petitioner's request for an interview is denied. The disposition of the decision on this petition would not be advanced by an interview. See 37 C.F.R. 1.181(e). This, of course, does not preclude petitioner from calling attorney Nancy Johnson with questions regarding the decision upon receipt.

Application papers in the above-identified application were deposited on December 9, 2004. On April 18, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," notifying applicants *inter alia* that the application papers had not been accorded a filing date because the application was deposited without drawings. In response, on June 15, 2005, applicants filed the initial petition pursuant to 37 CFR §1.57, acknowledging that

drawings were inadvertently omitted from the application on filing, but requesting entry of those drawings by virtue of a claim for benefit of the earlier filing date of application Serial No. 08/911,824.

By decision mailed October 27, 2005, the petition was dismissed. It was determined that the application on filing did not contain a claim under 1.78 for the benefit of the prior-filed nonprovisional, as alleged, or an incorporation by reference statement referring to that prior-filed application. Thus, the provisions of § 1.57(a) did not apply.

However, petitioner's alternative request that the application not be accorded a filing date after December 9, 2004, and that applicants be permitted to delete all references to the figures in the specification was granted. Based on the presence of at least one method claim in the application on filing, the application was accorded a filing date of December 9, 2004 with no drawings present on filing. See MPEP 601.01(f).

On instant request for reconsideration, petitioner maintains that applicants claimed the benefit of the prior-filed application Serial No. 08/911,824 at the time of filing. Citing MPEP Section 201.06(c)(page 200-35) and Section 201.11, petitioner argues that the claim for priority is based on:

1. The Utility Patent Application Transmittal clearly stating in box number 18 that the instant application is a divisional application[1].
2. Applicants checked box number 5b indicating that the copy of the oath or declaration from the prior application was submitted for the instant divisional application under 37 C.F.R. § 1.67.

Petitioner's argument is not well taken. For purposes of entitlement to the relief provided for by § 1.57(a), applicants must satisfy the requirements of § 1.57. Further, section 1.57 requires a claim under 1.78 for the benefit of a prior-filed provisional, nonprovisional or international application that was present on the filing date of the application. The basis argued by petitioner for having claimed the benefit of priority to the prior-filed nonprovisional application is incorrect. The

[1] It is noted that the application transmittal states that the application is a divisional, but does not identify any particular prior application.

rules allow for the submission of the declaration of a prior-filed application to be filed in a continuing application. See 1.63(d). However, this does not confer the benefit of the filing date of the prior-filed application. An applicant is required to satisfy the requirement of 1.78 to claim the benefit of a prior-filed nonprovisional application. As stated in MPEP 201.11, there are several conditions for a later-filed application to receive the benefit of the filing date of a prior-filed application under 35 U.S.C. 120, 121, or 365(c), or, provided the later-filed application is not a design application (see 35 U.S.C. 172), under 35 U.S.C. 119(e).

At minimum, applicants on filing did not meet the following conditions:

- The later-filed application must contain a reference to the prior-filed application in the first sentence(s) of the specification or in an application data sheet, for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for a benefit claim under 35 U.S.C. 119(e).

- If the later-filed application is a utility or plant application filed on or after November 29, 2000, the reference to the prior-filed application must be submitted within the time period set forth in 37 CFR 1.78(a) (e.g., during the pendency of the later-filed application and within the later of 4 months from the actual filing date of the later-filed application or 16 months from the filing date of the prior-filed application) for a benefit claim under 35 U.S.C. 120, 121, or 365(c), and also for benefit claim under 35 U.S.C. 119(e).

The application on filing did not include the required reference. By preliminary amendment filed June 15, 2005, more than four months after the filing date of the later-filed application, applicants tried to amend the first line of the specification to include the reference. (It is noted that the amendment is also on its face improper as it includes an incorporation by reference statement not present in the application on filing. Petitioner is reminded that a mere reference to an application is not an incorporation by reference.)

In view thereof, the prior decision mailed October 27, 2005 is affirmed. The instant request for reconsideration is **DISMISSED**.

As previously stated, the preliminary amendment filed June 15, 2005 will not be entered. A preliminary amendment deleting all references to the drawing figures should be filed prior to the first Office action on the merits.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to the decision mailed October 27, 2005, and this decision affirming the prior decision, the application has been referred to OIPE for **correction of the filing date to December 9, 2004** and **for indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**.

Telephone inquiries concerning this matter may be directed to Senior Petitions Attorney Nancy Johnson at (571) 272-3219.

Charles Pearson
Director
Office of Petitions

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DEPT. 377/AP6A
ABBOTT PARK, IL 60064-6008

Mail Date: 05/19/2010

Applicant	: John R. Hackett JR.	: DECISION ON REQUEST FOR
Patent Number	: 7619061	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/008,351	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FOLEY AND LARDNER LLP
3000 K STREET NW
SUITE 500
WASHINGTON, DC 20007

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JUN 07 2007

OFFICE OF PETITIONS

In re Application of	:
Yasunobu Terao et al	:
Application No. 11/008,381	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 016907-1786	:

This is a decision on the petition, filed June 6, 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 4, 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 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

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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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FORT COLLINS CO 80527-2400

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APR 11 2005

OFFICE OF PETITIONS

In re Application of	:
Wurst and Simpson	:
Application No. 11/008,395	: DECISION REFUSING STATUS
Filed: December 8, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 200316357-1	:

This is in response to the petition under 37 CFR 1.47(a), filed December 8, 2004.

The petition is **dismissed**.

Applicants are given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

On December 8, 2004, applicants filed the above-identified application without the signature of joint inventor, Alysia Wurst, on the declaration. Additionally, applicants submitted a petition under 37 CFR 1.47(a). On January 1, 2005, the Office mailed a "Notice to File Missing Parts of Application," stating that the signature of Alysia Wurst was missing from the oath or declaration and requiring a $130.00 surcharge.

In the present petition, applicants state that after diligent effort, applicants have been unable to reach Ms. Wurst. Applicants further state that Ms. Wurst quickly responded to an electronic mail message sent to her on November 4, 2004. Applicants assert they have not found any other addresses or telephone numbers for Ms.

Wurst. Additionally, applicants explain that numerous electronic mail messages have been sent to Ms. Wurst seeking her current mailing address and assistance in filing the application. However, Ms. Wurst has not responded to those messages.

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

As to item (1), it is unclear whether applicants are arguing that they are unable to locate the non-signing inventor or that the inventor has refused to sign the declaration.

Initially, the Office notes that applicants have failed to submit sufficient evidence to prove that diligent efforts have been made to locate the non-signing inventor. See MPEP 403.03(d). If attempts to obtain a forwarding address and to locate the nonsigning inventor by other means such as through telephone or the Internet fail, then applicants will have provided the necessary proof required under 37 CFR 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 firsthand knowledge of the details. Applicants should submit documentary evidence such as a copy of an envelope returned as undeliverable or the results of an Internet search.

However, if applicants are asserting that the inventor refuses to sign the declaration, applicants have failed to support this assertion. Unless inventor Wurst was presented with a complete copy of the application papers, including the specification, claims and drawings, she could not attest that she has "reviewed and understands the application papers." Accordingly, applicants failed to show or provide proof that the nonsigning inventor has refused to sign the declaration. See MPEP 409.03(d). To show that the inventor has refused to join in the application, applicants must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to inventor Wurst and that she did not respond to the request that she sign the declaration.

On December 8, 2004, the fee for a petition under 37 CFR 1.47(a) increased to $200.00. Applicants' Deposit Account will be charged accordingly.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:
Wurst and Simpson	:
Application No. 11/008,395	: DECISION GRANTING STATUS
Filed: December 8, 2004	: UNDER 37 CFR 1.47(a)
Attorney Docket No. 200316357-1	:

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 6, 2005.

The petition is **granted**.

Applicant showed that Alysia Wurst, the non-signing inventor, cannot be found after diligent efforts were made to locate her 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 Technology Center Art Unit 2632 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alysia Wurst
1568 Riverstone Lane
Apartment 104
Boise ID 83706

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OFFICE OF PETITIONS

In re Application of	:	
Wurst and Simpson	:	
Application No. 11/008,395	:	LETTER
Filed: December 8, 2004	:	
Attorney Docket No. 200316357-1	:	

Dear Ms. Wurst:

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

HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
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Theresa A. Lober
T.A. Lober Patent Services
45 Walden Street
Concord MA 01742

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OFFICE OF PETITIONS

In re Application of	:	
Golovchenko, et al.	:	
Application No. 11/008,402	:	DECISION ON PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HVD2310A	:	

This is a decision on the petition, filed October 20, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioners state that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 8, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request accompanies this decision on petition.

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

After the mailing of this decision, the application will be forwarded to Technology Center Art Unit 1765 for examination in due course.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/008,402	12/09/2004	Jene A. Golovchenko	HVD2310A

CONFIRMATION NO. 9602

Theresa A. Lober
T.A. Lober Patent Services
45 Walden Street
Concord, MA 01742

Date Mailed: 12/28/2006

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

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

The projected publication date is to be determined pending completion of Security Review..

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

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

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

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

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

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Mailed: 10-1-07

In re application of	:	
Hsieh et al.	:	DECISION ON
Serial No. 11/008,426	:	PETITION
Filed: December 10, 2004	:	
For: System For Bonding Glass Into A Structure	:	

This is a response to the PETITION UNDER RULE 37 C.F.R. 1.181(a) filed on August 21, 2007 to order the Examiner to review the references that were previously submitted by applicant on an Information Disclosure Statement. The Examiner lined through the references and in the Notice Of Allowance stated that the references were not considered because there was no copy present in the application file or the reproduction provided is of insufficient quality to be read.

In order to have information considered by the Office during the pendency of a patent application, an information disclosure statement must be (1) in compliance with the content requirements of 37 CFR 1.98, and (2) filed in accordance with the procedural requirements of 37 CFR 1.97. Once the minimum requirements of 37 CFR 1.97 and 37 CFR 1.98 are met, the examiner has an obligation to consider the information. Information submitted to the Office that does not comply with the requirements of 37 CFR 1.97 and 37 CFR 1.98 will not be considered by the Office but will be placed in the application file.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee).

The Petition is **DISMISSED**.

The references submitted by the applicant and not considered by the examiner were not legible and did not comply with requirements of 37 CFR 1.97 and 37 CFR 1.98

Jacqueline M. Stone wk

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Norman L. Sims
THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION, P. O. BOX 1967
MIDLAND MI 48641-1967

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4921 DESOTO DR
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JUN 15 2005

OFFICE OF PETITIONS

In re Application of	:	
Dean Thrasher	:	
Application No. 11/008,429	:	DECISION ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. THR-2	:	

This is a decision on the "PETITION AND RESPONSE TO NOTICE TO FILE MISSING PARTS", filed April 4, 2005, requesting that the above-identified application be accorded a filing date of December 9, 2004, with Figures 1-9 of the drawings as part of the original disclosure.

The petition is **DISMISSED**.

The application was filed on December 9, 2004. However, on January 31, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application", stating, *inter alia*, that the application had been accorded a filing date of December 9, 2004; however, Figures 1-9 of the drawings as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner does not argue that Figures 1-9 were included with the application papers as filed. However, petitioner states that the drawings were filed with parent application No. 60/528,094 which was incorporated by reference.

Figures not present on the filing date cannot be considered a part of the original disclosure of the application. As Figures 1-9 were not present in the Office on December 9, 2004, the application can not be accorded the December 9, 2004 filing date with the drawings of Figures 1-9 as a part of the original disclosure.

Accordingly, the Notice mailed on January 31, 2005 was correct in stating that Figures 1-9 of the drawings appeared to have been omitted. Therefore, the requirement for the omitted figures of drawings was proper and will not be withdrawn.

However, a review of the application file reveals that the specification included an incorporation by reference statement.

MPEP § 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to **amend** the continuing application to include any subject matter in such prior application(s), **without the need for a petition** (emphasis added).

Obviously, in view of the incorporation by reference statement to prior filed application, the drawings of Figures 1-9 are not new matter if they were a part of the disclosure of that application.

A petition fee is required because the petition was not necessitated by any error on the part of the United States Patent and Trademark Office.

The application is being returned to the Office of Initial Patent Examination for further processing, using the application papers filed December 9, 2004, and for indication in Office records that one (1) sheet of drawings was present on filing.

Telephone inquiries specific to this matter should be directed to the undersigned at 571-272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THERESA A. LOBER
T. A. LOBER PATENT SERVICES
45 WALDEN STREET
CONCORD, MA 01742

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MAR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Branton et al.	:	
Application No. 11/008,438	:	DECISION GRANTING PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. HVD2310B	:	

This is a decision on the petition, filed February 15, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 8, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of June 7, 2007, accompanies this decision on petition.

This matter is being referred to Technology Center Art Unit 1762 for examination in due course.

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

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/008,438	12/09/2004	Daniel Branton	HVD2310B

CONFIRMATION NO. 9124

Theresa A. Lober
T. A. Lober Patent Services
45 Walden Street
Concord, MA 01742

Date Mailed: 03/01/2007

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

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

The projected publication date is 06/07/2007.

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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RIVERFRONT OFFICE PARK
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CAMBRIDGE, MA 02142

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OFFICE OF PETITIONS

In re Application of
James R. Graham et al
Application No. 11/008,449
Filed: December 9, 2004
Attorney Docket No. W0536-700540

ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed March 18, 2005, to change the name of Inventor Cheng Jian Yuan to Jianyuan Cheng.

The petition is **GRANTED.**

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

Irvin Dingle
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachment: Corrected Filing Receipt

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1221 NICOLLET AVENUE
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MINNEAPOLIS, MN 55403-2420

Mail Date: 04/21/2010

Applicant	: Stephen Griffin	: DECISION ON REQUEST FOR
Patent Number	: 7632242	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,452	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1190** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Application of

Klang, et al.

Application No. 11/008,456

Filed: December 9, 2004

Attorney Docket No. C382.12-0136

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed August 4, 2006.

The petition is **granted**.

This application was held abandoned February 19, 2006, after no reply was received to the final Office action mailed November 18, 2005. The notice set forth a shortened statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on February 19, 2006. A Notice of Abandonment was mailed May 31, 2006. The instant petition was filed on August 4, 2006. Petitioner maintains that the non-final was never received and provides a copy of the relevant docketing calendar as proof of the same.

Section 711.03(c)(II) of the *Manual of Patent Examining Procedure* ("MPEP") provides that in order to establish non-receipt of an Office action so as prove that the imposition of a holding of abandonment is improper, petitioner must: 1) provide a statement to the Office indicating that the Office action was not received by petitioner; 2) include in the statement an attestation to the fact that a review of the file jacket and docket records maintained by petitioner indicates that the Office action was not received; and 3) provide a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology 2800, GAU 2838 for further processing that may include remailing the final Office action and resetting of the period for reply.

Questions concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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65 SPIT BROOK ROAD
P O BOX 868 NHQ1-719
NASHUA, NH 03061-0868

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OFFICE OF PETITIONS

In re Application of	:	
Edward A. Page	:	
Application No. 11/008,459	:	DECISION GRANTING PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 20040059	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 7, 2006 (and resubmitted on July 10, 2006), to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 20, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on March 21, 2006. A Notice of Abandonment was mailed on August 29, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply, (2) the $1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of December 20, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to Technology Center AU 3641 for appropriate action in the normal course of business on the reply received July 7, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Edward A. **Page** :
Application No. 11/008,459 : DECISION ON PETITION
Filed: September 09, 2004 :
Attorney Docket No. 20040059 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-final Office action mailed April 20, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on July 21, 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 December 21, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 3641 for appropriate action by the Examiner in the normal course of business on the reply received.

for David A. Bucci
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS, MN 55415-1002

Mail Date: 04/21/2010

Applicant	: Richard L. Dubay	: DECISION ON REQUEST FOR
Patent Number	: 7600445	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,493	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1340** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SUGHRUE MION PLLC
USPTO CUSTOMER NO WITH IBM/SVL
2100 PENNSYLVANIA AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 04/21/2010

Applicant	: Paul Miller Bird	: DECISION ON REQUEST FOR
Patent Number	: 7647626	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,507	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1047** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	:	
Walter K. Tuzeneau	:	DECISION ON PETITION
Application No. 11/008,521	:	TO MAKE SPECIAL
Filed: December 9, 2004	:	37 CFR 1.102(c)
For: TABLE WITH INCLINED WORK SURFACE	:	

This is a decision on the petition under 37 CFR §1.102(c), filed August 1, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special as set forth in M.P.E.P. § 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied any evidence showing that the applicant is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Walter K. Tuzeneau attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 3725 for expedited prosecution.

Amelia Au
Petitions Examiner
Office of Petitions

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986 BEDFORD STREET
STAMFORD CT 06905-5619

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OFFICE OF PETITIONS

Applicant: Borden et al.
Appl. No.: 11/008,534
Filing Date: December 9, 2004
Title: WIND POWER SYSTEM
Attorney Docket No.: 01251-P0012C WWW/HML
Pub. No.: US 2005/0161950 A1
Pub. Date: July 28, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 30, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if applicant did not provide copies of the drawings previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent. If it is not clear why the error is a material error, further explanation may be warranted.

The amendment received by the Office on April 1, 2005, which was improperly scanned into this application and published has been placed in the closed folder.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

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986 BEDFORD STREET
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In re Application of	:	
Borden, et al.	:	
Application No. 11/008,534	:	ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. 01251-P0012C	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed June 30, 2006.

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

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Extensions of time under 37 CFR 1.136(a) are permitted. No fee is required for a renewed petition.

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 29, 2005, which set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned by operation of law on September 30, 2005. A courtesy Notice of Abandonment was mailed on May 26, 2006.

Petitioner argues that the Examiner orally indicated that there was a mistake in the June 29, 2005 Office action, and that he would issue a new Office action, setting a new period for reply.

Petitioner further states that he was instructed by the Examiner that there was no need to respond to the Office action. As no new Office action was mailed by the Office, petitioner argues that the application is not abandoned due to failure to receive an Office action.

37 CFR 1.2 states, in part, that "[t]he 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."

Petitioner should have filed a response to the June 29, 2005 Office action. Petitioner failed to do so, and does not dispute this. No additional Office action was ever mailed by the Office. Accordingly, petitioner can not argue that the holding of abandonment should be withdrawn due to his failure to receive this non-existent Office action.

A petition to withdraw the holding of abandonment is only appropriate in those situations where an applicant is disputing that the application is even abandoned. Where an applicant is not disputing the abandonment of the application, but applicant's contentions involve the cause of the abandonment, then the appropriate remedy is to file a petition to revive under 37 CFR 1.137(a) on the basis of unavoidable delay, or 37 CFR 1.137(b) on the basis of unintentional delay.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee 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 this paragraph 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).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by (1) The reply required to the outstanding Office action or notice, unless previously filed; (2) The petition fee as set forth in 37 CFR 1.17(m); and (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional.

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

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

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

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Borden, et al.	:	
Application No. 11/008,534	:	ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. 01251-P0012C	:	

This is in response to the petition to revive under 37 CFR 1.137(b), filed July 20, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed June 29, 2005, which set an extendable period for reply of three (3) months. No reply having been received, the application became abandoned by operation of law on September 30, 2005. A courtesy Notice of Abandonment was mailed on May 26, 2006. Applicants filed a petition to withdraw the holding of abandonment on June 30, 2006. However, the petition was dismissed in a decision mailed on May 23, 2007.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

The matter is being forwarded to Group Art Unit 2834 for consideration of the Amendment filed July 20, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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In re Application of	:	
Widomski, et al.	:	
Application No. 11/008,539	:	ON PETITION
Filed: 9 December, 2004	:	
Attorney Docket No. 0106586.0016US2	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 22 August, 2005, and supplemented on 29 August, 2005.

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the instant application was filed on 9 December, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 21 January, 2005, the Office mailed a Notice of Missing Parts indicating, inter alia, that a fully executed oath/declaration was required within two months;
- on 22 August, 2005, Petitioner Allison E. Corkery (Reg. No. 52,770) filed a petition (with request and fee for extension of time), along with an oath/declaration containing the

signatures of named co-inventors Widomski and Devellian, but without the signature of named co-inventor Morris Simon (Mr. Simon), a narration that Mr. Simon was deceased and an attempt had been made without success to obtain the signature of his widow and executrix Josephine (Mrs. Morris) Simon, and on 29 August, 2005, the record was supplemented by David Cavanaugh (Reg. No. 36,476) to indicated that the signature had been obtained; and

- it now appears that the oath/declaration has been signed by all inventors/legal representatives.

(It is noted that it appears Petitioners have submitted two different forms of the oath/declaration–the former suggesting two inventors and the latter suggesting a single inventor, when the representation is that there are/were three inventors. However, in the absence of a failure of one or more inventors/representatives to sign, objection as to the form of the oath/declaration is reserved to the Examiner.)

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 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 Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being forwarded for examination in due course.

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Michael G. Marchini et al	:	
Application No. 11/008,543	:	DECISION ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. H0006204-0769	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 16, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The petition fails to satisfy items (2) and (3) above.

The petition fee for a petition under 37 CFR 1.78(a) is $1,410. Also, 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 is required.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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

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

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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P.O. BOX 2245
MORRISTOWN NJ 07962

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OFFICE OF PETITIONS

In re Application of	:	
Michael G. Marchini et al	:	
Application No. 11/008,543	:	DECISION ON PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. H0006204-0769	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed December 26, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed October 16, 2007 and resubmitted on December 26, 2007.

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) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2835 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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
11/008,543	12/09/2004	2835	1150	H0006204-0769	23	3

CONFIRMATION NO. 1159

CORRECTED FILING RECEIPT

OC000000028479479

Kris T. Fredrick
Honeywell International, Inc.
101 Columbia Rd.
P.O. Box 2245
Morristown, NJ 07962

Date Mailed: 02/26/2008

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

Applicant(s)

Michael G. Marchini, Freeport, IL;
Edward L. Stern, Lanark, IL;

Assignment For Published Patent Application

Honywell International, Inc.

Power of Attorney:

Luis Ortiz--36230
Kermit Lopez--41953
Kris Fredrick--42554

Domestic Priority data as claimed by applicant

This application is a CIP of 10/714,010 11/14/2003 PAT 6,847,000

Foreign Applications

If Required, Foreign Filing License Granted: 01/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/008,543**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Negative rate switch methods and systems for resilient actuating device

Preliminary Class

337

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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A PROFESSIONAL CORPORATION
POST OFFICE BOX 2926
KINGS BEACH, CA 96143-2926

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DEC 14 2006
OFFICE OF PETITIONS

In re Application of

PITTS, et al.
Application No. 11/008,556
Filed: December 09, 2004
Attorney Docket No. 2191CIP

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

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

There is no outstanding Office action that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: WILLIAM M. PITTS
780 MORA DRIVE
LOS ALTO, CA 94024

UNITED STATES PATENT AND TRADEMARK OFFICE

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POST BOX 2926
KINGS BEACH, CA 96143-2926

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DEC 14 2007

OFFICE OF PETITIONS

In re Application of
William M. PITTS
Application No. 11/008,556
Filed: December 9, 2004
Attorney Docket No. 2191CIP

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 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 Donald E. Schreiber on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

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

All future communications from the Office will be directed to the inventor at the address below until otherwise properly notified by the applicant.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: WILLIAM M. PITTS
780 MORA DRIVE
LOS ALTOS, CA 94024

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
11/008,556	12/09/2004	William M. Pitts	2191CIP

CONFIRMATION NO. 1188

POWER OF ATTORNEY NOTICE

A Professional Corporation
Post Office Box 2926
Kings Beach, CA 96143-2926

OC000000026968656

Date Mailed: 11/29/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/05/2007.

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

/dcgoodwyn/

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

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Director's Office
Office of Patent Publication

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

In re Application of	:	
Blankenstein, Gerte	:	
Application No. 11/008,573	:	**DECISION ON PETITION**
Filed: December 10, 2004	:	
Attorney Docket No. 740116-550	:	

This is a decision on the Petition To Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181, received in the United States Patent & Trademark Office (USPTO) on October 17, 2006.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee and Publication fee, as required in the Notice of Allowance and Fee(s) Due mailed January 27, 2006. The Notice of Abandonment, mailed on September 20, 2006 indicates, "The submitted fee of $ 1,400 is insufficient. A balance of $300 is due."

The Office acknowledges receipt of Part B – Fee(s) Transmittal on April 27, 2006, authorizing that the Issue Fee and Publication Fee be charged to Deposit Account No. 50-2478. On April 27, 2006, when an attempt was made by the Accounting Technician in the Office of Initial Patent Examinations (OIPE) to charge the fees, there were insufficient funds in the Deposit Account.

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

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."

> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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WWW.USPTO.GOV

RECEIVED
MAY 10 2007
By

Received on 5/10/07
Docketed By DB
Verified by
Roberts Mlotkowski & Hobbes PC

Paper No. None

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

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MAY 08 2007
OFFICE OF PETITIONS

In re Application of Gert Blankenstein et al. Application No. 11/008,573 Filed: December 10, 2004 Attorney Docket No. 740116-550 Title: SAMPLING MEANS AND SYSTEM FOR TESTING A SAMPLE LIQUID	DECISION ON RENEWED PETITION UNDER 37 C.F.R. §1.181

This is a decision on the renewed petition filed on December 18, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed January 27, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue or publication fees[1]. On April 27, 2006, form PTOL-85b was submitted, however when an attempt was made to charge these fees, the Deposit Account contained insufficient funds - only the issue fee could be charged. Accordingly, the above-identified application became abandoned on April 28, 2006. A Notice of Abandonment was mailed on September 20, 2006.

The original petition, filed on October 19, 2006, was dismissed via the mailing of a decision on November 20, 2006.

With this renewed petition, Petitioner has established that the Deposit Account contained adequate funds on April 27, 2006.

1 See MPEP §710.02(e).

Accordingly, the petition under 37 C.F.R. §1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The publication fee has been charged to Petitioner's Deposit Account.

The Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

Paul Shanoski

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

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2 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 3 1 2007

OFFICE OF PETITIONS

In re Application of	:	
Christiaan Alexander Hoogedam, et al.	:	
Application No. 11/008,576	:	DECISION GRANTING PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081468-0310678	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 26, 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 October 9, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Karen Cleary for

Frances M. Hicks
Petitions Examiner
Office of Petitions

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of
YUKSEL, K. Umit et al.
Application No. 11/008,609
Filed: December 10, 2004
Attorney Docket No. **1577-215**

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 29, 2008.

The request is not approve because it is **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 September 18, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **DUANE MORRIS LLP - ATLANTA**
IP DEPARTMENT
ATLANTIC CENTER PLAZA
1180 WEST PEACHTREE STREET, NW SUITE 700
ATLANTA, GA 30309-3348

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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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309-3996

MAILED

AUG 19 2009

OFFICE OF PETITIONS

In re Application of	:	
K. Umit Yuksel, et al.	:	
Application No.: 11/008,609	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No.: 29026-0346	:	

This is a decision on the petition, filed August 18, 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 July 23, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The application is being referred to Technology Center AU 3733 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

SUTHERLAND ASBILL & BRENNAN LLP
999 Peachtree Street, NE
Atlanta GA 30309-3996

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JUL 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,621,959	:	DECISION ON REQUEST
Yuksel et al.	:	FOR
Issue Date: 11/24/2009	:	RECONSIDERATION OF
Application No. 11/008609	:	PATENT TERM ADJUSTMENT
Filed: 12/10/2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
29026-0346	:	CERTIFICATE OF CORRECTION

This is a decision on the petition under 37 CFR 1.705(d), filed on January 24, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by nine hundred thirty-four (934) days. As further explained herein, the patent term adjustment is nine hundred thirty-two (932) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred thirty-two (932) days is **GRANTED to the extent indicated herein**.

As to the "B" delay, 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 December 11, 2007, and ends on August 17, 2009, the day before the RCE was filed, or 616 days, not 617 as asserted by patentees. See 35 U.S.C. 154(b)(1)(B)(i). Considering the 242 day period of "B" delay awarded at issuance, the additional period of "B" delay is 374 (616 - 242) days.

Patentees further assert that a 58 day period of reduction for applicant delay in connection with the filing, on August 18, 2009, of an RCE and Information Disclosure Statement (IDS) after the payment of the issue fee, should be assessed.

Upon review, patentees are correct. A review of the record reveals that, after the mailing of the Notice of Allowance on June 25, 2009, on August 18, 2009, then applicants filed a Petition to Withdraw from Issue, a Request for Continued Examination (RCE) and an Information Disclosure Statement (IDS). Prior to filing the RCE, applicant paid the Issue Fee. This set the calculation of the period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the RCE and IDS after the mailing of the Notice of Allowance on June 25, 2009, constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 58 days, counting the number of days in the period beginning on August 18, 2009, the date of filing of the RCE and IDS and ending on October 14, 2009, the date of mailing of the Notice of Allowance in response. Accordingly, a 58 day period of reduction for applicant delay is warranted.

The patent term adjustment is revised to 932 days (375 days of Office delay + 616 days of over three years delay - 59 (1 + 58) days of applicant delay.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office thanks patentees for their good faith and candor in bringing this to the attention of the Office.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction.

The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred thirty-two (932)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,621,959 B2

DATED : **November 24, 2009** **DRAFT**

INVENTOR(S) : Yuksel 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 616 days.

Delete the phrase "by 616 days" and insert – by 932 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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MAILED

JUN 27 2007

Technology Center 2100

David J. Zibelli
KENYON & KENYON LLP
1500 K Street, N.W. – Suite 700
Washington, D.C. 20005-1257

In re Application of:
Charles Joseph BRENNAN III, et al.
Application No. 11/008,610
Filed: December 10, 2004
For: PRIVATE DOMAIN NAME REGISTRATION

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 January 10, 2007 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

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 interpretation;
   - 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).

REVIEW OF FACTS

The conditions I. 1 & 3 above are considered to have been met. However, the petition fails to comply with conditions I.2, I. 4 and II. 1-6 above. Therefore, the petition fails to meet the required conditions to be accorded special status under the accelerated examination procedure.

The application and petition was not filed using EFS nor was their a statement stating that EFS was done.

With respect to the requirement of MPEP § 708.02(a)(I.)(E) and item I.4 above, the application must contain three or fewer independent claims.

With respect to the requirement of MPEP § 708.02(a)(I.)(A-I) and item II 1-6 above, the petition must be filed with the application, include a statement that applicant agrees not to separately argue the patentability of any independent claim during any appeal in the application, include a statement that applicant agrees to make an election without traverse in a telephone interview, include a statement that applicant agrees to conduct such an interview when requested by the examiner, 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, and the Petitioner must provide in support of the petition an accelerated examination support document.

Thus, the petition does not meet the conditions listed above.

DECISION

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 Tod Swann at (571) 272-3612.

Tod Swann
Technology Center 2100
Computer Architecture, Software, and
Information Security
571-272-3612

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/21/2010

Applicant	: James Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7588032	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,634	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/08/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1078** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Orit Levin	: DECISION ON REQUEST FOR
Patent Number	: 7653812	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,636	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1217** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, CA 22102

In re Application of	:	
LILGE, et al.	:	
Application No. 11/008,645	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. **449122078600**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on January 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, SUITE 1000
SUITE 1000
SAN FRANCISCO CA 94104

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OFFICE OF PETITIONS

In re Application of
John R. DESLARLAIS
Application No. 11/008,647
Filed: December 8, 2004
Attorney Docket No. 185833/US/2/RMS/RMK
(4630

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

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 26, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior-filed provisional applications 60/528,230, filed December 8, 2003, and 60/602,566, filed August 17, 2004.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(ii) 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)(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 amendment submitted concurrently with the petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(5)(ii). In this regard, the amendment is in an Application Data Sheet which does not comply with 37 CFR 1.76(c). The pertinent section of 37 CFR 1.76(c) states that supplemental application data sheets:

> (1) May be subsequently supplied prior to payment of the issue fee either to correct or update information in a previously submitted application data sheet, or an oath or declaration under § 1.63 or § 1.67, except that inventorship changes are governed by § 1.48, correspondence changes are governed by § 1.33(a), and citizenship changes are governed by § 1.63 or § 1.67; and

(2) Must be titled "Supplemental Application Data Sheet," include all of the section headings listed in paragraph (b) of this section, include all appropriate data for each section heading, and must identify the information that is being changed, preferably with underlining for insertions, and strike-through or brackets for text removed.

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

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(6).[1]

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

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to David Bucci at (571) 272-7099.

Brian Hearn
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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DORSEY & WHITNEY LLP
555 CALIFORNIA STREET, SUITE 1000
SUITE 1000
SAN FRANCISCO CA 94104

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OFFICE OF PETITIONS

In re Application of :
John R. DESLARLAIS :
Application No. 11/008,647 :
Filed: December 8, 2004 :
Attorney Docket No. 185833/US/2/RMS/RMK :
(4630

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed January 9, 2006 to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of a prior-filed provisional application.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on

petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

The application is being forwarded to Technology Center AU 1631 for appropriate action on the amendment submitted January 9, 2006, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application Nos. 60/528,230 and 60/602,566.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099 or in his absence to the undersigned at (571) 272-3217.

Brian Hearn
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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MORRISON AND FOERSTER, LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Holger HOPPE	:	
Application No. 11/008,648	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. 543822010500	:	FROM RECORD
	:	

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

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JJGJR.: 07-06

Paper No: __

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FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

In re Application of	:	
Tang, et al.	:	
Application No. 11/008,666	:	DECISION ON PETITION
Receipt/Filing Date: 22 February, 2005	:	
Attorney Docket No. INTEL-0100	:	

This is a decision on the petition filed on 5 April, 2006, and considered herein under 37 C.F.R. §1.53.

The instant petition is **DISMISSED** without prejudice.

BACKGROUND

The instant application was deposited on 10 December, 2004.

On 7 February, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items (the Notice) stating that the application had been accorded a filing date, but it appeared that page 21 of the specification (description, claims, abstract), had been omitted on deposit.

OIPE indicated that Petitioner might:

- contend via petition that the page had been submitted; or
- submit the omitted item(s) and accept the date of submission as the filing date; or
- ignore the Notice and accept the application as deposited.

OIPE set a two- (2-) month period for reply.

On 22 February, 2005, Petitioner appeared to select the second of the three alternatives set forth above.

On 22 February, 2005, Petitioner submitted a reply to the Notice, stating therein "submitted herewith is a copy of page 21 of the above-identified application inadvertently omitted" (emphasis supplied)–and Petitioner attached what was averred to be a true copy of page 21 of the specification.

From what Petitioner stated and what Petitioner did, it appeared that Petitioner agreed that he had omitted page 21 from the application on deposit, and subsequently was submitting the page to request as a filing date the date of submission–to wit: 22 February, 2005. At that time Petitioner also indicated another requested correction on page two of the original filing receipt, however, Petitioner apparently ignored the indication on page 1 of that document that the total claims numbered 27.

On 7 March, 2005, the Office mailed an updated filing receipt, and noted therein the filing date of 22 February, 2005–consistent with what appeared to be Petitioner's submission of that date.

Petitioner waited until 28 June, 2005, to request a "corrected filing receipt," and until 5 April, 2006, to file the instant petition–in which, Petitioner for the first time:

- submitted a nearly unreadable copy of a receipt card (see: MPEP §503[1]), which receipt

---

[1] 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

card he averred supports a filing date of 10 December, 2004, filing date for the application–including page 21; and

- averred that he did not mean what he said in February 2005–rather, he meant what he said with the later submission.

Petitioner must submit a more clear copy of his date-stamped receipt card..

Moreover, Petitioner must explain why he has submitted alternative statements of facts and of the relief he has requested.

Finally, Petitioner is given one (1) month, and not less than 30 days, counted from the mail date of this decision within which to reply to this decision. And–in light of the fact that almost two years since the deposit of the instant application and there is no final determination as to a filing date in this matter due to Petitioner's vacillations–extensions of time will not be available.

CONCLUSION

The petition is **dismissed**.

As noted above, Petitioner is given one (1) month to clarify the confusion created by the conflict in Petitioner's submissions and this period is not extendable.

---

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.)

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[2]) 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

[2] 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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JJGJR.: 12-07

Paper No: __

FLESHNER & KIM, LLP
P.O. BOX 221200
CHANTILLY VA 20153

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OFFICE OF PETITIONS

In re Application of :
Tang, et al. :
Application No. 11/008,666 : DECISION ON PETITION
Receipt/Filing Date: 22 February, 2005 :
Attorney Docket No. INTEL-0100 :

This is a decision on the petition filed on 31 August, 2006, and considered herein under 37 C.F.R. §1.53.

The Office regrets the delay in addressing this matter, however, the petition was presented to the attorneys in the Office of Petitions only at this writing.

The instant petition is **GRANTED**.

BACKGROUND

The instant application was deposited on 10 December, 2004.

On 7 February, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice of Omitted Items (the Notice) stating that the application had been accorded a filing date, but it appeared that page 21 of the specification (description, claims, abstract), had been omitted on deposit.

OIPE indicated that Petitioner might:

- contend via petition that the page had been submitted; or
- submit the omitted item(s) and accept the date of submission as the filing date; or
- ignore the Notice and accept the application as deposited.

OIPE set a two- (2-) month period for reply.

On 22 February, 2005, Petitioner appeared to select the second of the three alternatives set forth above in one breath, however, in the other Petitioner also submitted in his reply to the Notice, the statement: "submitted herewith is a copy of page 21 of the above-identified application inadvertently omitted" (emphasis supplied)–and Petitioner attached what was averred to be a true copy of page 21 of the specification.

From what Petitioner stated and what Petitioner did, it appeared that Petitioner agreed that he had omitted page 21 from the application on deposit, and subsequently was submitting the page to request as a filing date the date of submission–to wit: 22 February, 2005. At that time Petitioner also indicated another requested correction on page two of the original filing receipt, however, Petitioner apparently ignored the indication on page 1 of that document that the total claims numbered 27.

On 7 March, 2005, the Office mailed an updated filing receipt, and noted therein the filing date of 22 February, 2005–consistent with what appeared to be Petitioner's submission of that date.

Petitioner waited until 28 June, 2005, to request a "corrected filing receipt," and until 5 April, 2006, to file the original petition–in which, Petitioner for the first time:

- submitted a nearly unreadable copy of a receipt card (see: MPEP §503), which receipt card he averred supports a filing date of 10 December, 2004, filing date for the application–including page 21; and
- averred that he did not mean what he said in February 2005–rather, he meant what he said with the later submission.

The original petition was dismissed on 2 August, 2006, and Petitioner was requested to submit a more clear copy of his date-stamped receipt card and explain why he has submitted alternative statements of facts and of the relief he has requested.

The instant petition addresses this matter and Petitioner has clarified the matter for the Office evidencing with his receipt card that there were on deposit 26 pages of specification (description,

claims, abstract), with no duplicate pages, and that page 21 of the specification (claims) should be accorded a filing date of 10 December, 2004.

CONCLUSION

The petition is **granted**.

The instant application is released to OIPE for further processing as necessary consistent with this decision–to wit: further processing with a filing date of 10 December, 2004, for the entire application with pages 1 - 26 of the specification (description, claims, abstract), and 10 sheets of drawings, described in the specification, using:

- **pages 1 - 20 and 22 - 26 of the specification (description, claims, abstract) and 10 sheets of drawings, described in the specification, deposited on 10 December, 2004; and**
- **page 21 of the specification (description, claims, abstract) deposited on 22 February, 2005; and further**

with direction to OIPE to correct Office records and provide to Petitioner a corrected filing receipt setting forth a filing date of 10 December 2004, and reflecting therein that 26 pages of specification (description, claims, abstract) and 10 sheets of drawings were present on filing.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[1]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

---

[1] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing.The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation,or understanding in relation to which there is disagreement or doubt.

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Also Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,230,607

APPLICATION NO.: 11/008,673

ISSUE DATE : June 12, 2007

INVENTOR(S) : Ono, Katsuyasu

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the bibliographic information, insert the following text:

Related U.S. Application Data
(63) Continuation of Application No. PCT/JP03/07482 field on June 12, 2003.

At column 1, line 4, insert the following text:

This application is a continuation of Application No. PCT/JP03/07482 filed June 12, 2003.

APPROVED: /AE/

/Alexander Eisen/ 09/24/2009
GAU 2629

MAILING ADDRESS OF SENDER (Please do not use customer number below):
DOWELL & DOWELL P.C.
2111 Eisenhower Ave, Suite 406, Alexandria, VA, 22314, USA

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED-USPTO
APR 01 2008

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:

DATE 24 September 2009:

TO SPE OF : ART UNIT 2629

SUBJECT : Request for Certificate of Correction on Patent No.: 7,230,607

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:

/Alexander Eisen/
Supervisory Patent Examiner, Art Unit 2629

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.
11/008,717	12/09/2004	Rajendra Kumar	200404351-1	2479

7590 04/17/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
RICHARDSON, THOMAS W

ART UNIT	PAPER NUMBER
2144	

NOTIFICATION DATE	DELIVERY MODE
04/17/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/17/2008 DTERRY
12/14/2004 MBIZUNES 00000047 082025 11008717
02 FC:1111 500.00 CR

FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF THE DIRECTOR
TC 3600

MARKETS, PATENTS & ALLIANCES LLC
30 GLEN TERRACE
STAMFORD, CT 06906-1401

In re application of
James D. Schwartz et al.
Application No. 11/008,722
Filed: December 09, 2004
For: METHOD AND APPARATUS FOR BUNDLING INSURANCE COVERAGES IN ORDER TO GAIN A PRICING ADVANTAGE

DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)

This is in response to the petition filed on January 19, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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
(703) 308-0866

KJD/slb: 03/04/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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REZA GREEN, ESQ.
NOVO NORDISK PHARMACEUTICALS, INC.
100 COLLEGE ROAD WEST
PRINCETON NJ 08540

MAILED

MAR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Knudsen, et al.	:	
Application No. 11/008,743	:	DECISION
Filed/Deposited: 9 December, 2004	:	
Attorney Docket No. 4790.550-US	:	

This is a decision on the petition filed on 11 June, 2008, and later supplemented, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

On 20 March, 2007, the Examiner mailed Requirement for Restriction, with reply due absent extension of time on or before 20 April, 2007.

On 21 May, 2007, Petitioner filed via FAX, *inter alia*, a request and fee for extension of time, and a reply in the form of an election.

On 5 June, 2007, the Examiner mailed a further Requirement for Restriction, with reply due absent extension of time on or before 21 June, 2007.

On 9 August, 2007, the Examiner vacated the 5 June 2007 Office action (Requirement for Restriction).

On 24 August, 2007, the Examiner mailed a new Requirement for Restriction, with reply due absent extension of time on or before 24 September, 2007.

On Monday, 26 November, 2007, Petitioner filed a request and fee for extension of time, but appears to have filed no substantive reply at that time.

The application went abandoned by operation of law after midnight 24 November, 2007.

The Office mailed the Notice of Abandonment on 20 March, 2008.

On 11 June, 2008, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with fee, a reply in the form of an amendment (and drawing), and made a statement of unintentional delay.

On 3 March, 2009, Petitioner supplemented the earlier reply with one in the form of an election.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

---

[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.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of
Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 1654 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.

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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fletcher Yoder
P.O. Box 692289
Houston TX 77269-2289

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AUG 2 1 2007

OFFICE OF PETITIONS

In re Application of Harshfield Application No. 11/008,755 Filed: December 9, 2004 Attorney Docket No. MICS:0055/FLE(95-0865.02)	: DECISION ON PETITION : UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed December 9, 2004 and supplemented on October 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed on November 1, 2006.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The surcharge of $1,300.00 will be charged to deposit account no. 13-3092.

The rule at 37 CFR § 1.78(a)(3) requires 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. Since the statement appearing in the petition varies from the required language, the statement is

being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

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) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2815 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.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT.CLMS	IND CLMS
11/008,755	12/09/2004	2815	1400	MICS:0055/FLE(95-0865.02)	7	1

CONFIRMATION NO. 2168

CORRECTED FILING RECEIPT

OC000000025394716

Fletcher Yoder
P.O. Box 692289
Houston, TX 77269-2289

Date Mailed: 08/16/2007

Receipt is acknowledged of this reissue patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Steven T. Harshfield, Emmett, ID;

Power of Attorney:

Brent Knight--54226

Domestic Priority data as claimed by applicant

This application is a REI of 09/809,561 03/15/2001 PAT 6,563,156
and is a CIP of 09/617,297 07/14/2000 PAT 6,440,837

Foreign Applications

If Required, Foreign Filing License Granted: 03/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/008,755

Projected Publication Date: None, application is not eligible for pre-grant publication

Non-Publication Request: No

Early Publication Request: No

Title

Memory elements and methods for making same

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG WEST S. WING
ENGLEWOOD CLIFFS NJ 07632-3100

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In re Application of
Paul J. BIRKER et al.
Application No. 11/008,766
Filed: December 09, 2004
Attorney Docket No. **C7734(V)**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 October 24, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed July 24, 2008. Accordingly, the date of abandonment of this application is October 25, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

OIPE
OCT 2 8 2008
PATENT & TRADEMARK OFFICE

IFW DAC

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) C7734(V)

First named inventor: Paul Johan BIRKER

Application No.: 11/008,766 Art Unit: 1798

Filed: December 9, 2004 Examiner: Lorna M. Douyon

Title: Method of Laundry Washing

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee
☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity – fee $ 1,540.00 (37 CFR 1.17(m))

2. Reply and/or fee
A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ 1,810.00 10/29/2008 NNGUYEN2 00000008 121155 11008766
☐ has been paid previously on _____
☑ is enclosed herewith. 01 FC:1453 1620.00 DA

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.

PTO/SB/64 (09-08)
Approved for use through 10/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

[X] Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

[ ] A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

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: 10/28/08
Ronald A. Koatz Typed or printed name	31,774 Registration Number, if applicable
800 Sylvan Avenue, AG West, S. Wing Address	201-894-2912 Telephone Number
Englewood Cliffs, New Jersey 07632 Address	

Enclosures:
- [✓] Fee Payment
- [ ] Reply
- [ ] Terminal Disclaimer Form
- [ ] Additional sheets containing statements establishing unintentional delay
- [✓] Other: Issue fee

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.

10/28/08 Date	Signature
	Ronald A. Koatz Typed or printed name of person signing certificate

PAGE 3/4 * RCVD AT 10/28/2008 2:39:30 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/28 * DNIS:2732885 * CSID: * DURATION (mm-ss):00-54

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 23 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

In re Patent No. 7,589,199	:	DECISION ON REQUEST
Pennell et al.	:	FOR
Issued: September 15, 2009	:	RECONSIDERATION OF
Application No. 11/008,774	:	PATENT TERM ADJUSTMENT
Filed: December 8, 2004	:	and
Docket No. 019934-003740US	:	NOTICE OF INTENT TO ISSUE
	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 30, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred ninety-eight (698) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred ninety-eight (698) 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 December 9, 2007 and ends on February 24, 2009, the day before the RCE was filed, and is 444 (not 445) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 697, not 698 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 37 CFR 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 **six hundred ninety-seven (697)** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,589,199 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Pennell, 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 U.S.C. 154(b) by 253 days

Delete the phrase "by 253 days" and insert – by 697 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/30/09

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11008779 Patent No.: 7409048 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

FAN TSANG
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2/4/09

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.
11/008,780	12/09/2004	Rodolfo Antonio M. Gomez	2753-1-007	7398

23565 7590 01/09/2008
KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK, NJ 07601

EXAMINER
BELL, BRUCE F

ART UNIT	PAPER NUMBER
1745	

MAIL DATE	DELIVERY MODE
01/09/2008	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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Mailed:

In re application of	:	
Rodolfo Antonio M. Gomez	:	DECISION ON
Serial No. 11/008,780	:	PETITION
Filed: December 9, 2004	:	
For: Commercial Production Of Hydrogen From Water	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed August 27, 2007, 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 Terminal Disclaimer filed August 2, 2007 be expunged

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.

The image will be removed from the Official file.

11/008,780

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

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 J. Clark
Silicon Edge Law Group LLP
6601 Koll Center Parkway
Suite 425
Pleasanton, CA 94566

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DEC 20 2006
OFFICE OF PETITIONS

In re Application of	:	
Derek M. Smith et al.	:	
Application No. 11/008,802	:	DECISION ON PETITION
Filed: December 8, 2004	:	TO WITHDRAW
Attorney Docket No. 107-0006	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Kevin J. Clark has been revoked by the assignee of the patent application on November 3, 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.

J. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Clause Eight Intellectual Property Services**
P.O. Box 131270
Carlsbad, CA 92013

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22ND FLOOR
CHICAGO IL 60606

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Thurston	:	
Application No. 11/008,829	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 0600/96742	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 19, 2008.

The petition is **GRANTED**.

This application was held abandoned for failure to timely file a response to the non-final Office action, mailed October 20, 2006. This Office action set an extendable period for reply of three (3) months. No response having been received, the application became abandoned on January 21, 2007. A Notice of Abandonment was mailed on March 17, 2008.

It is obvious from reviewing the file that the Office action was mailed to the incorrect address. The Office action should have been addressed to the address set forth in the "Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address", filed on May 11, 2006.

In view thereof, **THE HOLDING OF ABANDONMENT IS WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2178 for re-mailing of the October 20, 2006 Office action to the above address of record, setting a new period for reply.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert Thurston	:	
Application No. 11/008,829	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. 2046.011US2	:	FROM RECORD
	:	

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 7, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Andre L. Marals and all attorneys/agents of record has been revoked by the assignee 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Husch Blackwell Sanders, LLP
Husch Blackwell Sanders
Welsh & Katz
120 S. Riverside Plaza
22nd Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

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OFFICE OF PETITIONS

In re Application of	:	
Takako Sanda	:	DECISION REFUSING STATUS
Application No. 11/008,833	:	UNDER 37 CFR 1.47(b)
Filed: December 10, 2004	:	
Attorney Docket No. 5267-88PCON	:	

This is in response to the petition under 37 CFR 1.47(b), filed August 24, 2005. Applicant obtained an extension of time for response within the fourth month. Accordingly, the petition is filed timely.

Applicant showed that Takako Sanda, the non-signing inventor, refused to join in the application after applicant mailed the application papers via Japanese registered mail, return receipt requested, to the inventor's last known address. A copy of the letter to the inventor and a copy of a delivery confirmation receipt, confirming delivery to the inventor accompany the petition.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration; (2) an acceptable oath or declaration; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) proof of irreparable damage. Applicant lacks items (2), (5), and (6) as set forth above.

Accordingly, the petition is dismissed.

Applicant is given TWO (2) 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(b)" 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).

As to item (2), applicant did not submit a declaration in compliance 37 CFR 1.63 and 1.64 with the present petition. Pursuant to MPEP 409.03(b)(A):

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. **Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.** Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).

The declaration submitted on petition is signed by Thomas Langer, a registered attorney representing Nokia. However, applicant did not submit any proof of the attorney's authority to act on behalf of Nokia. With any renewed petition, applicant must submit a statement by an appropriate corporate officer, or Mr. Langer may simply state that he is authorized to sign on behalf of Nokia.

As to item (5), applicant failed to show Nokia has sufficient proprietary interest in the subject matter to justify the filing of the application. Pursuant to MPEP 409.03(f):

> When an application is deposited pursuant to 37 CFR 1.47(b), the 37 CFR 1.47(b) applicant must prove that
>
> (A) the invention has been assigned to the applicant, or
>
> (B) the inventor has agreed in writing to assign the invention to the applicant, or
>
> (C) the applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application.
>
> If the application has been assigned, a copy of the assignment (in the English language) must be submitted. The assignment must clearly indicate that the invention described in

> the 37 CFR 1.47(b) application was assigned to the 37 CFR 1.47(b) applicant. A statement under 37 CFR 3.73(b) by the assignee must also be submitted (see MPEP § 324)....
>
> When an inventor has agreed in writing to assign an invention described in an application deposited pursuant to 37 CFR 1.47(b), a copy of that agreement should be submitted.... A typical agreement to assign is an employment agreement where an employee (nonsigning inventor) agrees to assign to his or her employer (37 CFR 1.47(b) applicant) all inventions made during employment. When such an agreement is relied on, it must be established by a statement of a person having firsthand knowledge of the facts that the invention was made by the employee while employed by the 37 CFR 1.47(b) applicant.
>
> If the invention has not been assigned, or if there is no written agreement to assign, the 37 CFR 1.47(b) applicant must demonstrate that he or she otherwise has a sufficient proprietary interest in the matter. A proprietary interest obtained other than by assignment or agreement to assign may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant. The facts in support of any conclusion that a court would award title to the 37 CFR 1.47(b) applicant should be made of record by way of an affidavit or declaration of the person having firsthand knowledge of same. The legal memorandum should be prepared and signed by an attorney at law familiar with the law of the jurisdiction involved. A copy (in the English language) of a statute (if other than the United States statute) or a court decision (if other than a reported decision of a federal court or a decision reported in the United States Patents Quarterly) relied on to demonstrate a proprietary interest should be made of record.

As to item (6), applicant did not provide proof of irreparable damage. The Office notes that applicant may establish irreparable damage by providing the USPTO with a statement that the filing of the application is necessary to preserve the rights of the party or to prevent irreparable damage. MPEP 409.03(g).

The Office finance records indicate that applicant paid a $130.00 petition fee. However, the current fee for filing a petition under 37 CFR 1.47(b) is $200.00. Therefore, the Office charged applicant's Deposit Account the difference of $70.00.

Further correspondence with respect to this matter should be addressed as follows and **directed 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 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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Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

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OFFICE OF PETITIONS

In re Application of	:	
Takako Sanda	:	DECISION ACCORDING STATUS
Application No. 11/008,833	:	UNDER 37 CFR 1.47(b)
Filed: December 10, 2004	:	
Attorney Docket No. 5267-88PCON	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed March 9, 2006. Applicant obtained an extension of time for response within the fourth month. Accordingly, the petition is filed timely.

Applicant showed that Takako Sanda, the non-signing inventor, refused to join in the application after applicant mailed the application papers via Japanese registered mail, return receipt requested, to the inventor's last known address.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in 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.

This matter is being referred to Technology Center Art Unit 2616.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Takako Sanda
4-43-2 Higashi-rinkan
Sagamihara-shi
Kanagawa 228-0811, Japan
AIR MAIL

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OFFICE OF PETITIONS

In re Application of	:	
Takako Sanda	:	LETTER
Application No. 11/008,833	:	
Filed: December 10, 2004	:	
Attorney Docket No. 5267-88PCON	:	

Dear Takako Sanda:

You are named as a sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining 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

Cohen, Pontani, Lieberman & Pavane
Suite 1210
551 Fifth Avenue
New York, NY 10176

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/10/2010

Applicant	: David E. Tetzlaff	: DECISION ON REQUEST FOR
Patent Number	: 7620121	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/008,847	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

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JAN 3 1 2006

OFFICE OF PETITIONS

In re Application of	:
Brad Zutaut, Richard Fortenberry	:
Jonathan Schreiber, Erik Kollner	: DECISION ACCORDING STATUS
Hal Bringman, Phil McGovern and	: UNDER 37 CFR 1.47(a)
Martyn Deobald	:
Application No. 11/008,852	:
Filed: December 9, 2004	:
Atty Docket No. 17346-004002	:

This is a decision on the PETITION UNDER RULE §1.47(a) filed September 8, 2005.

The petition is **GRANTED**.

The above-identified application was filed on December 9, 2004, without an executed oath or declaration. Accordingly, on February 9, 2005, applicants were mailed a "Notice to File Missing Parts of Nonprovisional Application," requiring an executed oath or declaration and a surcharge for its late filing. This Notice set a period for reply of two months from the mailing date of the notice, with extensions of time obtainable under § 1.136(a).

On September 9, 2005, applicants responded with two declarations executed, in combination, by joint inventors Fortenberry, Schreiber, Kollner, Zutaut, Bringman and McGovern on behalf of themselves and on behalf of non-signing inventor Deobald; the late surcharge under § 1.16(e); the instant petition (and petition fee of $130). Pursuant to the general authorization submitted with the petition, the required petition fee of $200 (not $130) has been charged to petitioner's Deposit Account.

This reply was made timely by an accompanying petition and fee for an extension of time for response within the fifth month.

Rule 47 applicants maintain that status under 37 CFR 1.47 is proper because joint inventor Martyn Deobald has, by his conduct, refused to join in the application for patent. 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.

By statement of facts of co-inventor Schreiber, and supporting documentary evidence, petitioner has shown that inventor Deobald was presented with all of the application papers on two occasions by Federal Express mailing. However, inventor Deobald has not responded to the requests to execute the declaration.

The declaration filed September 8, 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 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

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MR. MARTYN DEOBALD
1308 Carnation Circle
Longmont, CO 80503

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JAN 31 2006

OFFICE OF PETITIONS

In re Application of	:	
Brad Zutaut, Richard Fortenberry	:	
Jonathan Schreiber, Erik Kollner	:	LETTER
Hal Bringman, Phil McGovern and	:	
Martyn Deobald	:	
Application No. 11/008,852	:	
Filed: December 9, 2004	:	
Atty Docket No. 17346-004002	:	

Dear Mr. Deobald:

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 (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

FISH & RICHARDSON, PC
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Fish & Richardson, P.C.
P.O. Box 1022
Minneapolis, MN 55440-1022

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In re Application of	:	
Brad Zutaut et al.	:	
Application No. 11/008,852	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO WITHDRAW
Attorney Docket No. 17346.004002	:	FROM RECORD
	:	

This is a decision on the Requests to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 24, 2008 and July 26, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Fred C. Hernandez on behalf of all attorneys/agents of record. All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Brad Zutaut
4370 Colfax Avenue, #1
Studio City, CA 91604

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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
11/008,852	12/09/2004	Brad Zutaut	17346-004002

CONFIRMATION NO. 3310

POWER OF ATTORNEY NOTICE

20985
FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

OC000000031945036

Date Mailed: 09/08/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/26/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Paper No.

Shelby J. Walker
ZymoGenetics, Inc.
1201 Eastlake Avenue East
Seattle, WA 98102

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APR 14 2005
OFFICE OF PETITIONS

In re Application of	:	
Chan et al.	:	
Application No. 11/008,853	:	DECISION ON
Filed: December 10, 2004	:	PETITION
Attorney Docket No. 03-22	:	

This is a decision on the "PETITION" filed March 7, 2005. Petitioners request that the above-identified application be accorded a filing date of December 10, 2004, rather than the presently accorded filing date of December 9, 2004.

Petitioners maintain, in essence, that the above-identified application was deposited in compliance with 37 CFR 1.10 on December 10, 2004, and thus, is entitled to a filing date of December 10, 2004. In support thereof, petitioners submit copies of: the Express Mail mailing label used, No. EV601758062US; their Express Mail Certificate; and the relevant page from their Express Mail Log.

Having reviewed the evidence, it is concluded that petitioner has shown a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by other official USPS notation. The petition was filed promptly within the meaning of § 1.10(c)(1). A review of the transmittal sheet of record reveals that it specifically identifies the correspondence currently accorded a filing date of December 9, 2004. Moreover, the transmittal sheet bears the relevant Express Mail mailing label number. Thus, petitioners have shown that Express Mail No. EV601758062US was placed on the correspondence prior to the original mailing date. A review of

the copy of the Express Mail mailing label further reveals that the "date-in" entered by the USPS is December 10, 2004. Petitioners' mail log further corroborates that the package bearing the relevant Express Mail mailing label number was deposited in Express Mail on December 10, 2004, prior to the last pickup of the day.

In view thereof, the petition is **GRANTED**.

No petition fee is necessary.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to December 10, 2004. Thereafter, the application will be forwarded to Technology Center **AU 1653** for examination in due course.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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SHELBY J. WALKER
ZYMOGENETICS, INC.
1201 EASTLAKE AVENUE EAST
SEATTLE, WA 98102

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OFFICE OF PETITIONS

In re Application of	:	
Chung Chan	:	
Application No. 11/008,853	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 03-22	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 5, 2007 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 6, 2007.

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 $1115 extension of time submitted with the petition on October 15, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1656 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Wong Cabello Lutsch Rutherford & Brucculeri LLP
20333 Tomball Pkwy
Suite 600
Houston, TX 77070

Mail Date: 04/21/2010

Applicant	: Philip A. Segel	: DECISION ON REQUEST FOR
Patent Number	: 7599500	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,869	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Mail Date: 04/20/2010

Applicant	: Yi Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7599706	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1301** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.

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OFFICE OF PETITIONS

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

In re Application of	:	
Chen-Kuang Yeh et al.	:	
Application No. 11/008,920	:	DECISION ON PETITION
Filed: December 13, 2004	:	PURSUANT TO
Attorney Docket No.: MR1957-1209	:	37 C.F.R. § 1.137(B)
Title: ELECTRICAL CONNECTOR WITH SLIDING CONNECTION	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed October 21, 2008, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 4, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on August 5, 2006. A Notice of Abandonment was mailed on September 11, 2006.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

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, Applicant has submitted the issue, publication, and issue fees, along with the proper statement of unintentional delay. A terminal disclaimer is not required. As such, requirements one and two 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.[3]

Regarding the third requirement, Applicant has not established that the entire period of delay was unintentional. It is noted that the present petition was not filed until more than two years and one month had passed since the mailing of the notice of abandonment. It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that any action was taken to further the prosecution of this application, subsequent to the mailing of the notice of abandonment on September 11, 2006, for more than two years and one month.

It is equally unclear what, after all of this time, prompted the Applicant to advance the prosecution of this application.

As such, it appears that the Applicant <u>intentionally</u> allowed this application to go abandoned. The extended inaction of the Applicant appears to be intentional.

A discussion follows.

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3 <u>See</u> Rule 1.137(d).

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and 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 C.F.R. § 1.137(b).

The periods of delay:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 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 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 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) or (2).

As to Period (1), the patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 C.F.R. § 1.137(b)(3) provides that a petition under 37 C.F.R. § 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 Applicant must

meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 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 of more than two years and one month in resuming prosecution, there is a question whether the entire delay was unintentional. Applicant 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 C.F.R. § 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. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Applicant should explain why this application became abandoned subsequent to the mailing of the Notice of Allowance and Issue Fee Due of May 4, 2006. **Statements from both the Applicant and the former counsel of record must be provided.**[4] It must be explained why no response was submitted to this notice for such an extended period of time.

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), where the applicant deliberately chose 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

4 It is noted that both a change of correspondence address and a revocation of power of attorney and appointment of power of attorney were filed concurrently with this petition.

delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 C.F.R. § 1.137(b)[5].

The language of both 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 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 C.F.R. § 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 clear that any protracted delay (here, two years and one month) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from both the Applicant and former counsel, explaining why this petition was not filed sooner.

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C.

5 See MPEP § 711.03(c).

1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Applicant will need to address each of these issues, and include statements from both the Applicant and former counsel, if it is to be established that the entire period of delay was unintentional.

Applicant is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.137(b)". This is not a final agency action within the meaning of 5 U.S.C § 704.

Thereafter, there will be no further reconsideration of this matter[6, 7].

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be

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6 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

7 If, on the second request for reconsideration, Applicant fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.

submitted by mail[8], hand-delivery[9], or facsimile[10]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[11].

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[12]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

8 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
9 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
10 (571) 273-8300- please note this is a central facsimile number.
11 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
12 Applicant 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, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY MD 21043

MAILED

JUN 22 2010

OFFICE OF PETITIONS

In re Application of :
Chen-Kuang Yeh et al. :
Application No. 11/008,920 :
Filed: December 13, 2004 :
Attorney Docket No.: MR1957-1209 :
Title: ELECTRICAL CONNECTOR WITH SLIDING CONNECTION :

DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(B)

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed December 11, 2009, to revive the above-identified application.

This renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed May 4, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on August 5, 2006. A Notice of Abandonment was mailed on September 11, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on October 21, 2008, along with the issue, publication, and issue fees, and the proper statement of unintentional delay. The original petition was dismissed via the mailing of a decision on May 5, 2009, which indicated that requirements one and two of Rule 1.137(b) have been met, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

With this renewed petition, the third requirement of Rule 1.137(b) has been satisfied.

The electronic record, including both the original petition and this renewed petition pursuant to Rule 1.137(b), does not necessitate a finding that the delay between August 5, 2006 and December 11, 2009 was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Morton J. Rosenberg (Reg. No. 26,049) and Yu-Ching Li when accepting Petitioners' representation that the delay in filing the response <u>was</u> unintentional.[4]

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred

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3 See Rule 1.137(d).
4 See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. § 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. § 1.137(b) to the Patent and Trademark Office).

to the Office of Patent Publication, so that this application can be processed into a patent.

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 Office of Patent Publication 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 Office of Patent Publication 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.[5] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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

CAHN & SAMUELS LLP
1100 17th STREET NW
SUITE 401
WASHINGTON DC 20036

COPY MAILED

JUN 15 2009

OFFICE OF PETITIONS

In re Application of :
Bowman : DECISION ON PETITION
Application No. 11/008,926 :
Filed: December 13, 2004 :
Atty. Dkt. No: 332.0010 :

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed February 20, 2009.

The application was held abandoned for failure to timely submit a proper reply to the Office communication mailed January 28, 2008. The Office communication set a one month shortened statutory period of time for reply and allowed for extensions of time pursuant to 37 CFR 1.136(a). Notice of Abandonment was mailed October 3, 2008.

Petitioners assert non-receipt of the Office communication. Petitioner indicates that a search of the file jacket and docket records indicate that the non-final Office action was not received. Petitioners have provided a copy of a docket report and have set forth the docketing procedures in place.

The showing required to establish non-receipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response. Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required. A copy of the practitioner's record(s) required to show non-

receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the non-received Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

The instant petition and accompanying documentary evidence have been carefully reviewed and found in compliance with the procedures set forth at MPEP 711.03(c), "Case Tracking System Reminder List" having been construed as the required "Master Docket."

In view thereof, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated.

Further, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

This application is being forwarded to Group Art Unit 3782 for re-mailing of the Office communication. The time period for reply to the Office communication will be set forth therein.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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BRUCE H. TROXELL
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Chen, Chuan-Lung	:	
Application No. 11/008,932	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. BHT-3204-84	:	

This is a decision on the petition under 37 CFR 1.181, filed July 17, 2006, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated. A petition to revive under 37 CFR 1.137(b) was also submitted on October 31, 2007.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely and properly reply to the Notice of Allowance mailed March 22, 2006, which set a shortened statutory period for reply of three (3) months. A reply was due on or before June 22, 2006. A Notice of Abandonment was mailed on June 23, 2006.

Petitioner states that the reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of the return postcard, which acknowledges receipt by the U.S. Patent and Trademark Office (USTPO) on June 14, 2006 of 1. Transmittal Cover Sheet; and 2. Part B – Fee(s) Transmittal Form (in duplicate) along with the authorization to charge Deposit Account 501874. Additionally, petitioner has supplied a copy of the previously mailed correspondence, along with a copy of the June statement for Deposit Account 501874.

The reply acknowledged as having been received in the USPTO on June 14, 2006 has been located in the file. Only $555.00 was charged to petitioner's aforementioned deposit account towards payment of the issue fee. After reviewing the deposit account statement provided by the petitioner, it is clear there were enough funds to cover the $700.00 issue fee. It is unclear as to why the full amount was not charged.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

In view of the petition to withdraw the holding of abandonment being granted, the petition under 37 CFR 1.137(b) is hereby **DISMISSED AS MOOT**.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee. Petitioner submitted $1790.00 with the October 31, 2007 petition. $145.00

will be kept to be combined with the previously charged $555.00 to fulfill payment of the issue fee. The remaining $1645.00 will be credited to petitioner's deposit account as authorized.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

Applicant	: Haihong Zheng	: DECISION ON REQUEST FOR
Patent Number	: 7599345	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/008,971	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **957** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 1450
Alexandria, VA 22313-1450
www.uspto.gov

Therese Hendricks
Finnegan, Henderson, Farabow,
Garrett & Dunner, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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MAY 1 1 2005

OFFICE OF PETITIONS

In re Application of	:	
Vella	:	
Application No. 11/008,994	:	ON
Deposited: December 13, 2004	:	PETITION
Attorney Docket No. 08505.0023-00000	:	
For: ARTICLE CARRIER		

This is a decision on the petition under 37 CFR 1.53(e), filed March 30, 2005, to accord the above-identified application a filing date of December 13, 2004. Petitioners assert incorporation by reference as the means by which the drawings from application no. PCT/AU03/00282 should be considered part of the present application.

The petition under 37 CFR 1.53(e) is **GRANTED**.

On December 13, 2004, the application was deposited.

On February 1, 2005, the Office of Initial Patent Examination mailed a Notice stating that drawings and an executed oath/declaration were missing and that a filing date would be accorded upon receipt of the missing items.

In response, the present petition alleges that drawings were inadvertently omitted. However, the Application Transmittal letter and preliminary amendment incorporated by reference the entire disclosure of application no. PCT/AU03/00282.

The Office allows an applicant to rely upon an incorporation by reference of a parent application when a portion of the child application has been inadvertently omitted.

Based on the incorporation by reference, it appears that the drawings were present in the Office on December 13, 2004, albeit in the file of another application, i.e., application No. PCT/AU03/00282. Therefore, on petition, the application may be accorded the requested filing date of December 13, 2004.

In view of the above, the petition under 37 CFR 1.53(e) is **granted**. The copy of the drawings from application no. PCT/AU03/00282 submitted with the petition will be used for examination purposes. [1]

The petition fee of $400 is required since the petition was required to accord the application the requested filing date.

The Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of **December 13, 2004**, using the application papers filed on December 13, 2004 and the copy of the drawings from application no. PCT/AU03/00282 filed on March 30, 2005.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

[1] The Office assumes that the drawings are a true and exact copy of the drawings submitted in the parent application. If this is not the case, then petitioner must notify the Office. Of course, the primary examiner is expected to compare the instant drawings to the drawings in the parent application in order to verify that the drawings are, in fact, part of the prior application.

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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DEC 06 2007
OFFICE OF PETITIONS

In re Application of	:	
Jahng et al.	:	
Application Number: 11/009097	:	DECISION ON PETITION
Filing Date: 12/10/2004	:	UNDER 37 CFR 1.55(c)
Attorney Docket Number: 559552000121	:	

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 December 10, 2004, which is after November 29, 2000, and is a continuation-in-part 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 is different than the correspondence address. A courtesy copy of this decision is being mailed to the address listed in the ADS and supplement to 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/009,097	12/10/2004	3733	1365	559552000121	44	5

CONFIRMATION NO. 6282

CORRECTED FILING RECEIPT

OC000000027075882

25225
MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO, CA 92130-2040

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;
Jason Yim, Solana Beach, CA;
Brian Bowman, Solana Beach, CA;

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 09/27/2003

If Required, Foreign Filing License Granted: 01/27/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/009,097**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Spinal stabilization device

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).

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Morrison & Foester, LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Jahng et al.	:	
Application No. 11/009,097	:	DECISION ON PETITION
Filed: December 12, 2004	:	TO WITHDRAW
Attorney Docket No. 559552000121	:	FROM RECORD
	:	

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 Richard C. Kim and all attorneys/agents of record has been revoked by the assignee 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.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Stroock & Stroock & Lavan, LLP
180 Maiden Lane
New York, NY 10038

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/15/10

TO SPE OF : ART UNIT 2472

SUBJECT : Request for Certificate of Correction for Appl. No.: 11009127 Patent No.: 7606267

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: _____

_____

_____

_____

_____

William Trost **2472**
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110

Mail Date: 04/23/2010

Applicant	: Ricky Ho	: DECISION ON REQUEST FOR
Patent Number	: 7606267	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,127	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **818** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/9/07

TO SPE OF : ART UNIT 2811

SUBJECT : Request for Certificate of Correction on Patent No.: 7132714

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.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments:

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

2/20/07 2811

SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

COPY MAILED

JUN 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Joseph G. Barrett	:	
Application No. 11/009,150	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO WITHDRAW
Attorney Docket No. 06975-065002	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Babak Akhlaghi on behalf of himself.

Babak Akhlaghi has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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

JUN 2 2005

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron OH 44308

In re application of Stephen Tsengas, Ph.D. Application No. 11/009,164 Filed: December 10, 2004 For: APPARATUS AND METHOD OF MAKING A PET CHEW TOY	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 10, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Stephen Tsengas, Ph.D. indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dew: 4/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JUN 2 2005

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron OH 44308

In re application of Stephen Tsengas, Ph.D. Application No. 11/009,165 Filed: December 10, 2004 For: APPARATUS AND METHOD OF MAKING A PET CHEW TOY	: : : : : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on December 10, 2004 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Stephen Tsengas, Ph.D. indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Randolph A. Reese

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(703) 308-2121

RAR/dew: 4/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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PATENT, COPYRIGHT & TRADEMARK LAW GROUP
PO BOX 506
RICHFIELD OH 44286

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of Steven **Tsengas**	:	
Application No. 11/009,165	:	
Filed: December 10, 2004	:	DECISION ON PETITION
Attorney Docket No. 1385	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 13, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a timely manner to the Non-Final Office action mailed May 07, 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 above-identified application became abandoned on August 08, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

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, which *is* the address ~~is~~ associated with customer number 33055 above.

Telephone inquiries concerning this decision should be directed to Thuy Pardo at (571) 272-6052 or in her absence, the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received.

Christopher Bottorf

for David A. Bucci
Petitions Examiner
Office of Petitions

cc:
John D. Gugliotta
6100 Oak Tree Boulevard
Suite 200
Independence, OH 44131

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

COPY MAILED
AUG 25 2008
OFFICE OF PETITIONS

In re Application of	:	
Shannon, et al.	:	
Application No. 11/009,196	:	DECISION ON PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. VAS-4761CONDIV2	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 10,2007, to accept an unintentionally delayed claim under 35 U.S.C §120 for the benefit of priority to the prior –filed non-provisional applications set forth in the amendment filed concurrently with the instant petition.

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.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. § 120 is **GRANTED**.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon.

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center 3700, Art Unit 3774 for appropriate action on the Request for Continued Examination filed July 10, 2007, and amendment filed June 7, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the prior-filed non-provisional applications.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/009,196	12/10/2004	3774	1000	VAS-4761CONDIV2	13	1

CONFIRMATION NO. 3415

CORRECTED FILING RECEIPT

30452
EDWARDS LIFESCIENCES CORPORATION
LEGAL DEPARTMENT
ONE EDWARDS WAY
IRVINE, CA 92614

OC000000031685813

Date Mailed: 08/21/2008

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)

Donald Shannon, Mission Viejo, CA;
John McIntyre, Vista, CA;
Chris Kuo, Orange, CA;
Chris McCollam, Irvine, CA;
Robert Peterson, Dove Canyon, CA;

Power of Attorney:
Michael Schiffer--30215
Debra Condino--31007
Bruce Canter--34792
Janice Guthrie--35170
Raymond Sun--35699

Domestic Priority data as claimed by applicant

This application is a DIV of 09/912,006 07/24/2001 PAT 6,863,686
which is a DIV of 09/201,953 12/01/1998 PAT 6,267,834
which is a CON of 08/844,482 04/18/1997 PAT 5,843,173
which is a DIV of 08/423,762 04/17/1995 PAT 5,641,373

Foreign Applications

If Required, Foreign Filing License Granted: 01/24/2005
The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/009,196**
Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Radially-expandable PTFE tape-reinforced vascular grafts

Preliminary Class

623

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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

MAR 14 2005

In re Application of	:	
Paul Hardwig	:	
Serial No. 11/009,199	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO MAKE SPECIAL
For: CHECKBOOK COVER	:	

Applicant's petition, filed December 10, 2004, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED

E. R. Kazenske, Director
Technology Center 3700

Albert W. Watkins
30844 NE 1st Avenue
St. Joseph, MN 56374

UNITED STATES PATENT AND TRADEMARK OFFICE

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HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET
SUITE 3000
DENVER CO 80264

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NOV 10 2008

In re Application of	:	
Terpstra, et al.	:	
Application No. 11/009,204	:	DECISION ON PETITION
Filed: December 9, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 519-042-USP	:	

This is a decision on the petition, filed July 23, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 3, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 19, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

This application is being referred to Technology Center Art Unit 2444 for consideration of the amendment filed on July 23, 2008.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/009,204	12/09/2004	Richard D. Terpstra	519-042-USP

CONFIRMATION NO. 4391

NONPUBLICATION RESCISSION LETTER

69693
HENSLEY KIM & HOLZER, LLC
1660 LINCOLN STREET
SUITE 3000
DENVER, CO 80264

OC000000033032700

Date Mailed: 11/10/2008

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 02/19/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/swbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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FUJITSU PATENT CENTER
C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 52050

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DEC 0 8 2008

OFFICE OF PETITIONS

In re Application of	:
KATORI, et al.	:
Application No. 11/009,223	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **04-50475**	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 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 November 12, 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 2618 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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

Mail Date: 04/21/2010

Applicant	: Lutz Biedermann	: DECISION ON REQUEST FOR
Patent Number	: 7618458	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,224	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
P.O. BOX 272400
FORT COLLINS CO 80527-2400

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SEP 3 0 2005

OFFICE OF PETITIONS

In re Application of
Kiong Chin Chng et al.
Application No. 11/009,240
Filed: December 9, 2004
Attorney Docket Number: 200406800-1

: ON PETITION

This is a decision on the "Petition to Accept Previously Deposited 'Express Mail' Correspondence Under 1.11(e)" filed February 9, 2005.[1] The petition is treated as under 37 CFR 1.53.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on December 9, 2004. However, on January 24, 2005 the Office of Initial Patent Examination mailed a "Notice to File Missing Parts," notifying applicant that the application had been accorded a filing date but that the oath or declaration were missing.

In response, the instant petition argues that a complete application including the oath or declaration was filed by Express Mail on December 9, 2005. The petition is accompanied by, *inter alia*, the express mail label and a date-stamped postcard receipt itemized to show, amongst other things, that the oath or declaration was filed on December 9, 2004.

Petitioner submits a copy of the Express Mail label as proof that the application as filed was complete, and argues under 37 CFR 1.10(e) that the application should be accorded a filing date of December 9, 2004. The Express Mail label however is not persuasive evidence of the receipt of the oath or declaration on December 9, 2004. Where there is a dispute as to the *contents* of correspondence submitted to the Office an applicant may not rely upon the provisions of 37 CFR 1.10 to establish what documents and or fees were filed in the Office with such correspondence. Reliance on an express mail label is only appropriate where the correspondence was sent by Express Mail but nothing was received by the Office.

[1]Through a typographical error, petitioner's have incorrectly referred to the Express Mail provision as 1.11(e). The correct regulation is 37 CFR 1.10(e).

The postcard receipt however, corroborates petitioners assertion that the application as filed on December 9, 2004 was complete.

In view of the foregoing, the petition under 1.53 is **GRANTED**.

Given the basis for granting the petition no petition fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of December 9, 2004, using the application papers received in the Office on that date and the oath or declaration submitted on petition February 9, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/009,242	12/09/2004	Waldemar B. Szwajkowski	60310US002	5026

7590 06/04/2008
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

EXAMINER
LEWIS, RALPH A

ART UNIT	PAPER NUMBER
3732	

NOTIFICATION DATE	DELIVERY MODE
06/04/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Tom Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 06/03/2008 NFARMER
12/15/2004 WASFAW1 00000040 133723 11009242
02 FC:1111 500.00 CR
04 FC:1202 350.00 CR

FORM PET651G (Rev. 08/07)

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MANATT PHELPS AND PHILLIPS
ROBERT D. BECKER
1001 PAGE MILL ROAD, BUILDING 2
PALO ALTO CA 94304

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OFFICE OF PETITIONS

In re Application of	:	
HOFFMAN	:	
Application No. 11/009,253	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 27024-031	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 27, 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 the undersigned at 571-272-4787.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3712 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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BAILEY & TIPPENS
Bank One Tower
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

In re application of : **DECISION ON PETITION**
David H. Garretson : **TO MAKE SPECIAL**
Application No. 11/009,276 : **(APPLICANT'S AGE)**
Filed: December 08, 2004 :
For: DEMAND RESPONSIVE POWER GENERATION SYSTEM

This is a decision on the petition submitted on December 08, 2004, under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Mr. Garretson indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Steven N. Meyers
Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SNM/pav: 03/02/05

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DAVID P. WOOD
DELPHI TECHNOLOGIES, INC.
Legal Staff, Mail Code: 480-410-202
P.O. Box 5052
Troy MI 48007-5052

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OFFICE OF PETITIONS

In re Application of	:	
Zann et al.	:	
Application No. 11/009292	:	ON PETITION
Filing Date: 12/10/2004	:	
Attorney Docket Number:	:	
DP-310668	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 1, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 13, 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). Applicant filed a reply to the Office action on August 14, 2006; however, the reply failed to place the application in condition for allowance. Applicant was so notified in a Advisory Action, mailed August 29, 2006. Accordingly, the date of abandonment of this application is September 14, 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, and the submission required by 37 CFR 1.114 (the Amendment filed August 14, 2006); (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) 272-3232.

This application is being referred to Technology Center AU 2832 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.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070523

DATE : May 23, 2007

TO SPE OF : ART UNIT 1626

SUBJECT : Request for Certificate of Correction on Patent No.: 7,091,231

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:

Neither the scope or meaning of the claims are changed with this Certificate of Correction. No new issues of patentability are raised. The Certificate of Correction is approved to enter.

Joseph K. McKane
JOSEPH K. McKANE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

SPE: Joseph K. McKane **Art Unit** 1626

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AND POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

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OFFICE OF PETITIONS

In re Application of :
Weinberg et al. :
Application No. 11/009,301 :
Filed: December 10, 2004 :
Attorney Docket No. 28377-011 :

Decision on Petition

This is a decision on the petition under 37 CFR 1.182, filed February 22, 2005, to change the order of the names of the inventors.

The petition is **granted**.

The order of the names of the inventors will be changed as follows:

1. Jerry L. Weinberg
2. Neil A. Ginther
3. Jed A. Aten
4. Ru T. Wang

Petitioner submitted $130 for the petition fee. As of November 1, 2004, the fee for a petition under 37 CFR 1.182 is $400. Therefore, $270 will be charged to petitioner's deposit account.

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (703) 306-5683.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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MICHAEL, BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

Mail Date: 04/21/2010

Applicant	: Richard S. Parr	: DECISION ON REQUEST FOR
Patent Number	: 7657964	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,311	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Bever Hoffman & Harms, LLP
Tri-Valley Office
1432 Concannon Blvd., Bldg. G
Livermore, CA 94550

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OFFICE OF PETITIONS

In re Application of

Richard L. Gray
Application No. 11/009,322
Filed: December 10, 2004
Attorney Docket No. AME-009

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 12, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272- 2991.

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Analog Microelectronics, Inc.**
3100 De La Cruz Blvd., Suite 201
Santa Clara, CA 95054-2402

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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW, DEPT. QPZA/ 210
8501 IBM DRIVE
CHARLOTTE, NC 28262

Mail Date: 04/21/2010

Applicant	: Francois-Xavier Drouet	: DECISION ON REQUEST FOR
Patent Number	: 7647379	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,328	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1016** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 1/12/09

TO SPE OF : ART UNIT 1792

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/009,331 Patent No.: 7429402 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes **do not** apply.
- ☐ Denied — State the reasons for denial below.

Comments: _____

SPE

1792
Art Unit

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
777 - 6th Street, NW
WASHINGTON, DC 20001-2421

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OFFICE OF PETITIONS

In re Application of	:	
Peter F. Shieh	:	
Application No. 11/009,334	:	ON PETITION
Filed: December 9, 2004	:	
Attorney Docket No. OMNV-017/00US	:	

This is a decision in response to the petition, filed July 16, 2008, requesting, in effect, that a filing date of November 14, 2005 be acknowledged for a Notice of Foreign Filing and Rescission of Previous Non Publication Request (Notice) filed pursuant to 37 CFR 1.10. This decision is also responsive to the petition to revived under the provision of 37 CFR 1.137(f).

Petitioner argues that the Notice was deposited in Express Mail service on November 14, 2005. In support, the petition is accompanied by, *inter alia*, a copy of the Notice and Express Mail Label Receipt No. EV 729039302 US showing a "Date In" of November 14, 2005.

37 CFR 1.10(e) states:

> Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";
>
> (3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date

is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition is found to comply with all the requirements of 37 CFR 1.10(e). Accordingly, the November 14, 2005 filing date is acknowledged for the Notice.

The petition under 37 CFR 1.10 is GRANTED.

However, before a proper determination on whether or not notification of foreign filing under 35 U.S.C. 122(b)(2)(B)(iii), including a notice of rescission under 35 U.S.C. 122(b)(2)(B)(ii), was received within forty-five days after the date the counterpart application was filed, petitioner must supply the filing date of the foreign application.

At present, the petition under 37 CFR 1.137(f) is DISMISSED.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

This application is being returned to Technology Center AU 2416 for appropriate prosecution on the merits.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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JAN 04 2008

TECHNOLOGY CENTER 2100

Gregory D. Leibold
Merchant & Gould P.C.
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of:
Ronald Mahany et al.
Appl. No.: 11009338
Filed: December 9, 2004
For: RADIO FREQUENCY LOCAL AREA NETWORK

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on November 8, 2007, to expunge information submitted pursuant to MPEP § 724.05.

The petition is **DISMISSED**.

Petitioner requests that the information in six references, listed as Cite No. C27, C28, C29, C119, C120, and C431, submitted in an Information Disclosure Statement, filed June 5, 2006, be expunged from the record. Petitioner states that failure to obtain its return would cause irreparable harm to Applicant, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the information submitted on June 5, 2006 is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be expunged from the application and may be returned to applicant.

The identified documents are currently not available for public view as of December 21, 2007. It is noted that the instant application has been published on May 12, 2005. Thus, the identified documents submitted on June 3, 2006 have already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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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.
11/009,338	12/09/2004	Ronald L. Mahany	14406US04	1625

23446 7590 01/04/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
01/04/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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JUL 24 2008

TECHNOLOGY CENTER 2100

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of:
Ronald Mahany et al.
Appl. No.: 11009338
Filed: December 9, 2004
For: **COMMUNICATION NETWORK HAVING A PLURALITY OF BRIDGING NODES WHICH TRANSMITS A POLLING MESSAGE WITH BACKWARD LEARNING TECHNIQUE TO DETERMINE COMMUNICATION PATHWAY**

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed April 28, 2008, to expunge the information in six references, listed as Cite No. C27, C28, C29, C119, C120, and C431, unintentionally submitted in an Information Disclosure Statement on 6/5/2006.

The petition is **GRANTED-IN-PART**.

Petitioner requests that the unintentionally submitted information entitled

C27 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Compatability Standard, Draft Rev. 0", 07/31/1990, Bates Nos. QBB 138614-832

C28 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Compatability Standard, Draft Rev. 1 ", 10/01/1990, Bates Nos. QBB 138833-9249

C29 - "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobile Station-Base Station Comparability Standard, Draft Rev. 1.1", 07/15/1991, Bates Nos. QBB 139250-858

C119 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.12", 03/16/1992

C120 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.13", 03/23/1992

C431 - "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station - Base Station Compatibility Standard, Rev. 1.14", 04/21/1992

filed on June 5, 2006 be expunged from the record and returned to applicant. Petitioner states that the failure to obtain the return of the unintentionally submitted information would cause irreparable harm to applicant. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

With regards to materiality of the references, Examiner states in the Notice of Allowance mailed on January 31, 2008, that the examiner believes the six references listed above to be material to

the case at hand because these references discuss the compatibility standard for cellular mobile telecommunications systems and communication between dual-mode mobile stations and base stations. This is in accordance with the Applicants statement that the above-mentioned references are earlier revisions of the publicly available published version that was submitted to the USPTO as:
C121 - "Proposed EIA/TIA Interim Standard, Wideband Spread Spectrum Digital Cellular System Dual-Mode Mobile Station - Base Station Compatibility Standard," EIA/TIA/IS-95, 04/21 /1992.

Further, it is noted that document referred above as C119 and C120 were copyrighted in 1992, and hence are available to the public.

Accordingly, the documents referred to above as C27, C28, C29, and C431 will be expunged from the record.

The expunged material has been closed from public view and will not be returned to applicant.

The identified documents are currently not available for public view as of December 21, 2007. It is noted that the instant application has been published on May 12, 2005. Thus, the IDS filed on June 5, 2006, and the identified documents submitted on June 5, 2006 have already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

It is noted that if applicants must submit a new IDS to replace the IDS that was submitted on June 5, 2006, listing all the documents other than the expunged documents, if the Applicant wishes the office to consider those documents.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

Mano Padmanabhan

Mano Padmanabhan, WQAS 2180
Technology Center 2100
Computer Architecture, Software, and Information Security

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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.
11/009,338	12/09/2004	Ronald L. Mahany	14406US04	1625

23446 7590 08/05/2008
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

EXAMINER
PEYTON, TAMMARA R

ART UNIT	PAPER NUMBER
2182	

MAIL DATE	DELIVERY MODE
08/05/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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Philip Henry Sheridan
McAndrews, Held & Malloy, Ltd.
500 West Madison Street
Suite 3400
Chicago, Illinois 60661

In re Application of:
Ronald MAHANY et al.
Appl. No.: 11/009,338
Filed: December 9, 2004
For: RADIO FREQUENCY LOCAL AREA NETWORK

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a supplemental decision on the petition under 37 CFR 1.59(b), filed on 28 April 2008, to expunge information submitted on 05 June 2006.

The petition is **GRANTED**.

Petitioner requests that the documents entitled "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobil Station-Base Station Compatability Standard, Draft Rev. 0", "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobil Station-Base Station Compatability Standard, Draft Rev. 1", "CDMA Digital CAI Standard, Cellular System Dual-Mode Mobil Station-Base Station Compatability Standard, Draft Rev. 1.1", "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station-Base Station Compatibility Standard, Rev. 1.12", "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station-Base Station Compatibility Standard, Rev. 1.13", "Proposed EAI,TIA Standard, Cellular System CDMA-Analog Dual-Mode Mobile Station-Base Station Compatibility Standard, Rev. 1.14" submitted on 5 June 2006 be expunged from the record. Petitioner states that the documents were inadvertently submitted and states that the failure to obtain their return may cause irreparable harm to Qualcomm (page 3 of the petition filed on 28 April 2008). The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The expunged documents have been closed from public view and will not be returned to applicant.

It is noted that the instant application has been published on 12 May 2005. Thus, the aforementioned documents submitted on 5 June 2006 has already been made available to the public and subject to copying by the public. According, the Office cannot guarantee that the information being closed as a result of this decision was not previously accessed by the public.

Applicant is required to retain the expunged information for the life of any patent, which issues on the above-identified application

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

Vincent N. Trans, SPRE/QAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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THE DIRECTV GROUP, INC.
RE/R11/A109
P.O. BOX 956
EL SEGUNDO CA 90245-0956

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NOV 30 2006

OFFICE OF PETITIONS

In re Application of	:	
Lin-Nan Lee et al	:	
Application No. 11/009,346	:	DECISION GRANTING PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. PD-204019	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 18, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee and publication fee (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of March 8, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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SEP 12 2005

In re Application of Michael P. Joyce et al. Serial No. 11/009,369 Filed: December 10, 2004 For: A STAPLER WITH LEAF SPRING ACTUATION MECHANISM	:	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed July 11, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Jeffrey I. Kaplan
Kaplan Gilman Gibson & Dernier, LLP
900 Route 9 North, Suite 104
Woodbridge, NJ 07095

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David W. Osborne
Thorpe North & Western, LLP
P.O. Box 1219
Sandy, UT 84091-1219

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OFFICE OF PETITIONS

In re Application of
Chen-Min Sung
Application No. 11/009,370
Filed: December 09, 2004
Attorney Docket No. 20303.CIP2

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 10, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU 1793 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Patent No. 7,201,370	:	
Issued: April 10, 2007	:	
Application No. 11/009,385	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 009270-031421	:	

This is a decision on the petition under 37 CFR 1.182, filed , November 12, 2008 requesting issuance of a duplicate Letters Patent for the above-identified application.

The petition is **GRANTED**.

The file record discloses that the instant application matures into U.S. Patent No. 7,201,370 on April 10, 2007. However, petitioner contends that the patent was never received and it is presumed lost in the mail.

In view of the facts set forth in the petition and submission of the petitioner's docket record, it is concluded that the patent was never received.

The Publishing Division is directed to issue a duplicate Letters Patent.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206. Any questions concerning issuance of the duplicate Letters Patent should be directed to Niomi Farmer at (703) 308-9250, ext. 129.

A copy of this decision is being forwarded to Publishing Division for issuance of a duplicate Letters Patent.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: Niomi Farmer, P/ODM, South Tower 8C23 (FAX 571-270-9753)

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 2/23/09

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 11009396 Patent No.: 7398535 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

xApproved	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

_____

_____

_____

_____

_____ _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE

Art Unit

Newsome, Lamonte

From: Blouin, Mark
Sent: Friday, March 13, 2009 3:11 PM
To: Newsome, Lamonte
Subject: RE: 11009396
Attachments: SPE's Reponse2-3-09 (2).doc

The changes have been reviewed and approved.

Mark Blouin
AU2627

From: Newsome, Lamonte
Sent: Friday, March 13, 2009 1:53 PM
To: Blouin, Mark
Subject: FW: 11009396

2nd Request!

From: Newsome, Lamonte
Sent: Monday, February 23, 2009 1:01 PM
To: Blouin, Mark
Subject: 11009396

Please review the attached document.

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30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

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MAY 11 2010

OFFICE OF PETITIONS

In re Application of	:	
Witte et al.	:	
Application No. 11/009,410	:	ON APPLICATION FOR
Filed: December 10, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 077375.0182	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed August 18, 2009. Applicants submit that the patent term adjustment to be indicated on the patent is four hundred eighty-four (484) days, not one hundred fifty-eight (158) 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 February 14, 2006 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). 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, 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.**

On May 18, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified

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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.

application. The Notice stated that the patent term adjustment is 158 days. On August 18, 2009, applicants submitted the instant request for reconsideration of patent term. Applicants dispute the reduction of 128 days associated with filing a complete reply to the February 14, 2006 Notice to File Missing Parts of Nonprovisional Application.

On April 8, 2005, the Office mailed a Notice to File Missing Parts of Nonprovisional Application that required applicants to submit an executed oath or declaration, late filing fees, and a sequence listing. On June 8, 2005 applicants filed a response. The response is not present in the application file. However, applicants have provided an itemized date stamped post card receipt showing that the Office received, *inter alia*, a declaration, late filing fees, sequence listing (diskette and paper copy), a statement under 37 CFR 1.821(f) and a preliminary amendment on June 8, 2005.

On February 14, 2006, the Office mailed a second Notice to File Missing Parts of Nonprovisional Application, requesting applicants submit an executed oath or declaration, late filing fees, and a sequence listing.

On April 14, 2006, applicants filed a response to the February 14, 2006 Notice. It is noted that the response was a copy of the items submitted on June 8, 2005.

On September 14, 2006, 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 computer readable form (CRF) of the sequence listing was damaged and requesting a new CRF.

On September 19, 2006, applicant filed a new CRF.

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 and that the Office failed to notify applicants of the problem with the CRF for more than one year after it was first filed, which resulted in the substantial delay in the examination of the application.

In this instance, applicants failed to engage in reasonable efforts to conclude processing of the application by failing to completely reply to the February 14, 2006 Notice within the three-month period provided for in 37 CFR 1.704(b). Applicants

filed a partial response on April 14, 2006. Applicants did not file a complete response until September 19, 2006. It is applicants' responsibility to file complete responses to Office actions/Notices. The September 14, 2006 Notice to Comply did not set forth a new requirement. It merely pointed out that applicants had failed to file an acceptable CRF in response to the February 14, 2006 Notice. Since the April 14, 2006 response to the February 14, 1006 Notice was a copy of what was filed on June 8, 2005, it appears that applicants did not file an acceptable CRF until September 19, 2006. The fact that the Office mailed a second Notice to File Missing Parts of Nonprovisional Application worked in applicants' favor with respect to calculating patent term adjustment.

Accordingly, the period of adjustment should have been reduced by 158 days pursuant to 37 CFR 1.704(c)(8), counting the number of days beginning on the day after the date the initial reply to the February 14, 2006 Notice to File Missing Parts of Nonprovisional Application was filed, April 15, 2006, and ending on the date that the acceptable CRF was filed, September 19, 2006. Accordingly, a period of reduction of 128 days will be removed and a period of reduction of 158 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 twenty-eight (128) days** (432 days of Office delay - 304 (158+33+61+8+44) days of 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: 5/10/2010

PALM INTRANET

Time: 08:50:29

PTA Calculations for Application: 11/009410			
Application Filing Date:	12/10/2004	PTO Delay (PTO):	432
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	274
Post-Issue Petitions:	0	Total PTA (days):	128
PTO Delay Adjustment:	-30		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
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104	05/13/2009	DOCUMENT VERIFICATION			
103	05/13/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
102	05/11/2009	EXAMINER'S AMENDMENT COMMUNICATION			
101	05/11/2009	NOTICE OF ALLOWABILITY			
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87	09/29/2008	ELECTRONIC REVIEW			
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85	09/29/2008	MAIL NON-FINAL REJECTION			
84	09/25/2008	NON-FINAL REJECTION			
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80	07/28/2008	DATE FORWARDED TO EXAMINER			
		AMENDMENT SUBMITTED/ENTERED WITH			

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50	04/02/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
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42	06/09/2006	MISCELLANEOUS INCOMING LETTER			
41	04/14/2006	PRELIMINARY AMENDMENT			
40	11/08/2005	REFERENCE CAPTURE ON IDS			
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37	10/06/2006	APPLICATION DISPATCHED FROM OIPE			
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29	12/10/2004	CLAIM PRELIMINARY AMENDMENT			
28	04/14/2006	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
27	04/14/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			

26	09/06/2006	CORRESPONDENCE ADDRESS CHANGE			
25	09/06/2006	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
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15	04/08/2005	PRE-EXAM OFFICE ACTION WITHDRAWN			
13	06/15/2005	A SET OF SYMBOLS AND PROCEDURES, PROVIDED TO THE PTO ON A SET OF COMPUTER LISTINGS, THAT DESCRIBE IN			
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2	12/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/10/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/009,415	12/13/2004	Toru Harada	263163US2	5049

22850 7590 03/09/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
LE, CANH

ART UNIT	PAPER NUMBER
2439	

NOTIFICATION DATE	DELIVERY MODE
03/09/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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James Kulbaski
Oblon, Spivak, McClelland Maier & Neustadt, LLP
1940 Duke Street
Alexandria VA 22314

In re Application of:
Harada et al.
Application No. 11/009,415
Filed: December 13, 2004
For: Information Processing Apparatus, Image Forming Apparatus, and Electronic Data Movement Canceling Method

DECISION ON PETITION UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed February 26, 2010 under 37 CFR § 1.181 to have the examiner consider references on the Information Disclosure Statement s(IDS) filed on December 13, 2004 that were not previously considered.

A review of the record reveals that the examiner has now considered all of the references and returned an initialed signed copy of the December 13, 2004, 1449 on Febraury 24, 2010 to petitioner.

As petitioner's relief has already occurred, the petition is **DISMISSED AS MOOT.**

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612.

Tod Swann
Workgroup Quality Assurance Specialist
Technology Center 2400

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CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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OFFICE OF PETITIONS

In re Application of	:	
Blake Johnson et al	:	
Application No. 11/009,435	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO WITHDRAW
Attorney Docket No. PA2456US	:	FROM RECORD
	:	

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 23, 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 Susan Yee, on behalf of all attorneys of record who are associated with customer No. **22830**.

All attorneys/agents associated with the Customer Number **22830** 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/assignee.

The application is being referred to Technology Center AU 3623 to await a reply to the Non-final Office action mailed February 14, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

Conferee: dp

cc:

BLAKE JOHNSON
12881 VIA GRIMALDI
DEL MAR. CA 92014

cc:

EITAN, MEHULAL, PAPPO, KUGLER & CO.
11 HAMENOFIM ST.
ACKERSTEIN TOWER B, 6TH FLOOR
HERZELIA
ISRAEL 46120

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SNELL & WILMER LLP (OC)
600 ANTON BOULEVARD
SUITE 1400
COSTA MESA CA 92626

In re Application of	:	
HENRY C. ABBINK	:	
Application No. 11/009,438	:	DECISION ON PETITION
Filed: 12/09/2004	:	
Attorney Docket No. 34261-9000	:	

This is a decision on the petition under 37 CFR 1.181 (no fee), filed January 8, 2008, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before December 7, 2007, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed September 7, 2007. A Notice of Abandonment was mailed on January 4, 2008.

Petitioner asserts that the Notice dated September 7, 2007, was not received.

A review of the written record indicates no irregularity in the mailing of the Notice, and, in the absence of any irregularity, there is a strong presumption that the Notice was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Notice was not in fact received. In this regard, the showing required to establish the failure to receive the Notice must consist of the following:

1. a statement from practitioner stating that the Notice was not received by the practitioner;
2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Notice was not received; and
3. a copy of the docket record where the nonreceived Notice would have been entered and docketed had it been received must be attached to and referenced in the practitioner'statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).
The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

This application is being referred to the Technology Center AU 2818 technical support staff for **re-mailing** the Notice of Allowability and the Notice of Allowance and Fee(s) Due of September 7, 2007. The period for paying the issue and publication fees[1] will be reset to expire three (3) months from the date the Notices are re-mailed. This period is not extendable under the provisions of 37 CFR 1.136.

Any inquires regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[1] Effective September 30, 2007, the utility issue fee **increased to $1,440.00**.

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Mail Date: 04/21/2010

Applicant	: Noritoshi Maruchi	: DECISION ON REQUEST FOR
Patent Number	: 7649656	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,462	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

In re Application of	:	
Chih-Ming Hung et al.	:	
Application No. 11/009,495	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. TI-36623	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 9, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed April 18, 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 July 19, 2006. The Notice of Abandonment letter was mailed on October 24, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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 or authorization of agent to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the

petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2817 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: **Ira S. Matsil**
17950 Preston Road, Suite 1000
Dallas, TX 75252-5793

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801 GRAND AVENUE
SUITE 3200
DES MOINES IA 50309-2721

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OFFICE OF PETITIONS

In re Application of	:
Heady et al.	:
Application No. 11/009,499	: DECISION ON PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. P06685US00	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 23, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 10/351,861, filed January 27, 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. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 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 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark 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.

Further, 37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed September 23, 2008 fails to state the relationship of Application No. 10/351,861, filed January 27, 2003, to the instant application.

Accordingly, a substitute amendment stating the relationship of the prior-filed application to the instant application, also in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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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 Alicia Kelley at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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Advanced Bionics, LLC
25129 Rye Canyon Loop
Valencia, CA 91355

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MAR 26 2008

In re Application of	:	
Paul M. Meadows et al.	:	
Application No. 11/009,508	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. AB-075U1A	:	FROM RECORD .
	:	

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 08, 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 reason set forth in the request, "ownership transfer . . .," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant, since no assignee has properly intervened in this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions at this time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Paul M. Meadows
1854 Los Encinos Avenue
Glendale, CA 91208-2240

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SAN FRANCISCO CA 94111-3834

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OCT 0 3 2005

OFFICE OF PETITIONS

In re Application of	:	
Bura, et al.	:	DECISION ACCORDING STATUS
Application No. 11/009,524	:	UNDER 37 CFR 1.47(a)
Filed: December 10, 2004	:	
Attorney Docket No. 040246-001610US	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 18, 2005.

The petition under 37 CFR 1.47(a) is **GRANTED**.

The above-identified application was filed on December 10, 2004, without an executed oath or declaration. Accordingly, on January 18, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring, *inter alia*, an executed oath or declaration, together with a surcharge for its late filing.

In reply, applicant filed the instant petition on August 18, 2005, made timely with a five month extension of time. Accompanying the petition was a declaration executed by inventor Christopher J. Bura, with the signature block for David A. DeMartini 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 statement from Chad A. King, attesting that the attorney for Martini, Dana Ferestien, during a telephone conversation on August 12, 2005, indicated that Martini would not sign the declaration. While the record does not make it clear that Martini was ever presented with the application papers, it is concluded based upon the facts presented on petition that Martini 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 <u>accorded Rule 1.47(a) status</u>.

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.

The application file is being forwarded to Group Art Unit 2131 for docketing and examination in due course.

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
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID A DEMARTINI
7279 VARSITY LANE NE
BREMERTON WA 98311

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OFFICE OF PETITIONS

In re Application of :
Christopher J. Bura, David A. :
DeMartini :
Application No. 11/009,524 :
Filed: December 10, 2004 : LETTER
Title: Policing Internet Domains

Dear Mr. DeMartini:

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

Chad E. King
Townsend Townsend and Crew LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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OFFICE OF PETITIONS

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

In re Application of
Jason R. Kolodziej
Application No. 11/009,526
Filed: December 10, 2004
Attorney Docket No. GP-305875

ON PETITION

This is a decision in response to the petition, filed March 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed June 29, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 30, 2007. A Notice of Abandonment was mailed on February 6, 2008. In response, on March 7, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2125 for appropriate action by the Examiner in the normal course of business on the amendment filed March 7, 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

[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. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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ALEXANDRIA, VA 22313-1450
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JUL 13 2005

In re Application of	:	
Gys Van Beek	:	
Serial No. 11/009,556	:	DECISION ON PETITION
Filed: December 9, 2004	:	TO MAKE SPECIAL
For: MULTI-PURPOSE TOOL	:	

Applicant's petition, filed December 9, 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.

Frederick R. Schmidt, Director
Technology Center 3700

Shane A. Kennedy
Pedersen & Company, PLLC
P.O. Box 2666
Boise, ID 83701-2666

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BEYER WEAVER & THOMAS LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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APR 1 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul R. MIGHETTO	:	
Application No. 11/009,576	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. BRL1P001	:	37 CFR 1.102(c)(2)
	:	

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed November 28, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence of category (A) or (B). Petitioner indicates that the greater efficiency of the LED lighting device would limit the amount of power plants needed and pollutants generated. Initially, it is noted that the application disclosure is directed to light emitting diodes in general and it is not clear on its face that the claimed invention materially contributes to the conservation of energy resources. As such applicant provided a statement as to how the invention materially contributes to energy conservation. The instant petition fails to meet the materiality standard of 37 CFR 102 (c)(2)(ii). Although the invention may be directed to the development of a more efficient light source, the materiality standard of the rule has not been met, i.e., petitioner has failed to state how the claimed invention contributes in a significant, substantial, or noticeable manner to the conservation of energy resources. That the invention is a light emitting diode in itself does not meet the materiality standard, as light emitting diodes are a known source of light. Therefore, the issue is not whether light emitting diodes in general are more energy efficient but rather, how petitioner's invention would contribute in a significant manner to the conservation of energy resources. Accordingly, it is unclear as to

how the claimed invention would contribute in a significant manner to the development or conservation of energy resources.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(i) and MPEP § 708.02, Section V: Environmental Quality, must state that special status is sought because the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements. If the disclosure is not clear on its face that the claimed invention materially enhances the quality of the environment by contributing to the restoration or maintenance of one of the basic life-sustaining natural elements, the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. No fee is required

The instant petition states that the light emitting diodes would reduce pollutants, however, it fails to state how the invention materially enhances the quality of the environment by contributing to the restoration or maintenance of basic life-sustaining natural elements.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2875 for action in its regular turn.

David Bucci
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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Kevin A. Buford
Holland & Knight LLP
2099 Pennsylvania Ave., N.W.
Washington D.C., 20006

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OFFICE OF PETITIONS

In re Application of	:	
Paul Henri Braconnier	:	
Application No. 11/009,578	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. 098277.00001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 15, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Kevin A. Buford.

Kevin A. Buford has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

In re Application of
Emre Tapucu, et al.
Application No. 11/009,593
Filed: December 10, 2004
Attorney Docket No.: 18977US01

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 26, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2611 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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
11/009,593	12/10/2004	2611	690	18977US01	21	4

CONFIRMATION NO. 1593

CORRECTED FILING RECEIPT

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

OC000000041747178

Date Mailed: 05/21/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Emre Tapucu, Los Gatos, CA;
Charles Abraham, Los Gatos, CA;
Frank Van Diggelen, San Jose, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 10/774,309 02/06/2004 PAT 7,447,253

Foreign Applications

If Required, Foreign Filing License Granted: 05/21/2010

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/009,593**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and apparatus for decoding satellite navigation data from a satellite positioning system

Preliminary Class

375

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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JUN 1 2005

Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
SanFrancisco, CA 94111-3834

In re Application of: Mike McGaughy Serial No. 11/009,597 Filed: December 10, 2004 For: STEERING KNUCKLE	NOTIFICATION OF IDENTIFICATION OF PRIOR ART IN LATE FILED PROTEST UNDER 37 CFR 1.291(a)

The protest filed May 11, 2005 under 37 CFR 1.291 was filed after the May 5, 2005 publication date of the application.

Because the protest was filed after publication of the application, it is untimely and it is not being entered in the application file. The original protest is enclosed with this letter in accordance with MPEP 1901.06, Protest Filed After Allowance or Publication of the Application.

If appropriate, applicant may wish to consider submitting prior art from the protest pursuant to 37 CFR 1.97 and 37 CFR 1.56 during the prosecution of the application.

Steven N. Meyers, Special Programs Examiner
Patent Technology Center 3600
(703) 308-3868

SM/SM: 5/29/05

Enclosure: Protest filed May 11, 2005 under 37 CFR 1.291(a)

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Thomas M. Galgano, Esq.
GALGANO & ASSOCIATES, PLLC
Suite 204
20 West Park Avenue
Long Beach NY 11561

mailed Jan. 10, 2007

In re Application of: MANGANO, JOY Serial No.: 11/009,600 Filed: Dec. 10, 2004 Docket: 380-124 Title: EXPANDABLE BAG	DECISION ON PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on Dec. 10, 2004 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 **DISMISSED**.

In support of the petition, petitioner provides: a) the applicable fee to be charged against the deposit account provided; b) a statement that all claims are directed to a single invention, c) a statement that a search has been made in the field of Class 150, d) one IDS filed on Dec. 10, 2004 (total of 10 references cited); and e) no detailed discussion of any of the cited 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) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a) (b) c) and (d) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII) (e).

Regarding 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." The applicant provides a discussion of the references cited but does not point out the particular language that distinguishes the independent claims, filed on Dec.10, 2004, from these references. The applicant's general allegations that the invention is patentable over the references run contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. For example, applicant's general allegation that "her invention to be novel and distinguished from the prior art" which is insufficient to comply with MPEP § 708.02(VIII)(e). In order for the petition to be granted, the petitioner must point out the specific differences between each reference and the language of the independent claims. Because the petition does not point out the specific language in each of the independent claims that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

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. Any request for reconsideration would be moot inasmuch as the application has been allowed on Oct. 23, 2006.

Henry C. Yuen,
Special Program Examiner
Technology Center 3700
Tel: 571-272-4856

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JUL 21 2005

Galgano & Burke
Suite 35
300 Rabro Drive
Hauppauge NY 11788

In re Application of :
Joy Mangano :
Serial No.: 11/009,601 : DECISION ON PETITION
Filed: December 10, 2004 :
For: Portable Foot Operated Exercise Device:

This is in response to the petition applicant filed on December 10, 2004 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/16/07

Paper No.: ____

TO SPE OF : ART UNIT 2625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/009620 Patent No.: 7136184B2

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: _____

AUNG MOE
PRIMARY EXAMINER
SPE

2625
Art Unit

27123
↑CUSTOMER NUMBER↑

Docket No. 1232-4687US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	7,136,184 B2	Issued:	November 14, 2006
Applicant(s):	Nobuyuki Tonegawa	Group Art Unit:	3611
Serial No.:	11/009,620	Conf. No.:	2626
		Examiner:	Beniyam Menberu
Filed:	December 10, 2004		
For:	COMMUNICATION APPARATUS AND METHOD		

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Mail Stop Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Attached in duplicate is Form PTO-1050, with at least one copy being suitable for printing.

☒ The error was the fault of the Patent and Trademark Office, no fee is required.

☐ The error was not the fault of the Patent and Trademark Office, please charge the requisite fee of $100 to Deposit Account No. **13-4500**, Order No. _____.

☒ The Commissioner is hereby authorized to charge any additional fees which may be required by this paper, or credit any overpayment to Deposit Account No. **13-4500**, Order No. 1232-4687US1. A DUPLICATE COPY OF THIS SHEET IS ATTACHED.

Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: December 15, 2006

By: Sungho Hong
Sungho Hong
Registration No. 54,571

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

27123
↑CUSTOMER NUMBER↑

Docket No. 1232-4687US1

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.	7,136,184 B2	Issued:	November 14, 2006
Applicant(s):	Nobuyuki Tonegawa	Group Art Unit:	3611
Serial No.:	11/009,620	Conf. No.:	2626
		Examiner:	Beniyam Menberu
Filed:	December 10, 2004		
For:	COMMUNICATION APPARATUS AND METHOD		

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT

Mail Stop Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Respectfully submitted,
MORGAN & FINNEGAN, L.L.P.

Dated: December 15, 2006

By: Sungho Hong
Sungho Hong
Registration No. 54,571

Correspondence Address:
MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101
(212) 415-8700 Telephone
(212) 415-8701 Facsimile

1036703 v1

PTO/SB/44 (07-03)
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 NUMBER : 7,136,184 B2

DATED : November 14, 2006

INVENTOR(S) : Tonegawa

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Specification:

Before col. 6, line 44, please insert title --<Arrangement of Image Input/Output Device>--.

MAILING ADDRESS OF SENDER: Morgan & Finnegan, LLP
3 World Financial Center
New York, NY 10281-2101

PATENT NO. 7,136,184 B2

No. of additional copies

⇒ 0

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/44 (07-03)
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 NUMBER : 7,136,184 B2
DATED : November 14, 2006
INVENTOR(S) : Tonegawa

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In the Specification:

Before col. 6, line 44, please insert title --<Arrangement of Image Input/Output Device>--.

MAILING ADDRESS OF SENDER: Morgan & Finnegan, LLP
3 World Financial Center
New York, NY 10281-2101

PATENT NO. 7,136,184 B2
No. of additional copies
⇒ 0

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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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FEB 0 2 2006

OFFICE OF PETITIONS

BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

In re Application of
John P. Kennedy, et al.
Application No. 11/009,623
Filed: December 13, 2004
Attorney Docket No. 3047/101

ON PETITION

This is a decision on the petition, filed October 7, 2005, under the provisions of 37 CFR 1.137(b), to revive the above-identified application.

The application became abandoned for a failure to timely respond to a Notice to File Missing Parts mailed February 2, 2005. This decision precedes the mailing of a Notice of Abandonment. On October 7, 2005, the present petition was filed, including the fees required in the notice mailed February 2, 2005.

It is noted that the person filing the present petition is no longer an attorney of record in this application. However, in accordance with 37 CFR 1.34(a), the signature of John D. Gugliotta appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. All future correspondence regarding this application file will be directed solely to the address of record.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: LAW OFFICES OF JOHN D. GUGLIOTTA, PE, ESQ.
202 DELAWARE BUILDING
137 SOUTH MAIN STREET
AKRON, OH 44308

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED
SEP 15 2008

In re Application of	:
Jarmo Skarp, et al.	:
Application No. 11/009,626	: DECISION ON PETITION
Filed: November 19, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. SEPP15.001CP1	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 2, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

> **(1)** the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The 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.

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1792 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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
11/009,626	11/19/2004	1792	1064	SEPP15.001CP1	28	3

CONFIRMATION NO. 9645

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000032060077

Date Mailed: 09/15/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jarmo Skarp, Espoo, FI, FINLAND;
Mervi Linnermo, Klaukkala, FINLAND;
Timo Asikainen, Vantaa, FINLAND;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/829,894 04/21/2004 PAT 6,884,465
which is a CON of 10/003,749 10/23/2001 PAT 6,743,475

Foreign Applications

FINLAND 20002323 10/23/2000

If Required, Foreign Filing License Granted: 01/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/009,626**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PROCESS FOR PRODUCING METAL OXIDE FILMS AT LOW TEMPERATURES

Preliminary Class

427

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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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
666 THIRD AVENUE
NEW YORK, NY 10017

In re Application of	:	
Oleg Logvinov, et al.	:	
Application No. 11/009,628	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 103880-049US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed by September 1, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to a Notice to File Missing Parts mailed January 25, 2005. The notice required an oath or declaration under 37 CFR 1.63 and the surcharge as set forth in 37 CFR 1.16(e). A Notice of Abandonment was mailed on November 8, 2005. In response, on September 1, 2006, the present petition was filed, as well as an executed declaration and the requisite surcharge.

The petition is found to comply with the requirements of 37 CFR 1.137(b). Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing using the declaration filed September 1, 2006.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO
ATTN: PATENT INTAKE CUSTOMER NO. 35437
ONE FINANCIAL CENTER
BOSTON, MA 02111

COPY MAILED

SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
LOGVINOV, Oleg et al.	:	
Application No. 11/009,628	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. **34585-524-059**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 27, 2008.

The request is because it is **moot**.

A review of the file record indicates that the power of attorney to MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO has been withdrawn. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ARKADOS, INC**
220 OLD NEW BRUNSWICK ROAD
SUITE 202
PISCATWAY NJ 08854

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

UNILEVER PATENT GROUP
800 SYLVAN AVENUE
AG WEST S. WING
ENGLEWOOD CLIFFS, NJ 07632-3100

In re Application of	:	
Maartje OUWENDIJK-VRIJENHOEK et al.	:	
Application No. 11/009,639	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. C7737(V)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 01, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply in a timely manner to the non-final Office action mailed September 05, 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 above-identified application became abandoned on December 06, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 05, 2008 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney documents must be

submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

The change of correspondence address filed October 01, 2009, cannot be granted as Deborah A. Sterling, Reg. No. 62,732 is not an attorney of record in the instant application.

Telephone inquiries concerning this decision should be directed to Ella Colbert at (571) 272-6051 or in her absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1796 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

cc: DEBORAH A. STERLING
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005-3934

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/009,657	12/09/2004	3763	12860	020460-001010US	35	76	13

CONFIRMATION NO. 2767

CORRECTED FILING RECEIPT

OC000000015779071

20350
TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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)

Motasim Sirhan, Sunnyvale, CA;
John Yan, Los Gatos, CA;

Assignment For Published Patent Application

Avantec Vascular Corporation, Sunnyvale, CA

Power of Attorney: The patent practitioners associated with Customer Number **20350**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/017,500 12/14/2001
which is a CIP of 10/002,595 11/01/2001
which claims benefit of 60/308,381 07/26/2001
and is a CIP of 09/783,253 02/13/2001
and is a CIP of 09/782,927 02/13/2001 PAT 6,471,980
and is a CIP of 09/783,254 02/13/2001
and is a CIP of 09/782,804 02/13/2001
and claims benefit of 60/258,024 12/22/2000

Foreign Applications

If Required, Foreign Filing License Granted: 02/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/009,657

BEST AVAILABLE COPY

Projected Publication Date: 06/16/2005

Non-Publication Request: No

Early Publication Request: No

Title

Apparatus and methods for controlled substance delivery from implanted prostheses

Preliminary Class

604

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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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Troy W. Wingler	: DECISION ON REQUEST FOR
Patent Number	: 7641620	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,670	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **74** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

DATE : 8/6/08

Paper No.: —

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/009678 Patent No: 7041560 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: _____

CHARLES D. GARBER
SUPERVISORY PATENT EXAMINER
SPE

2812
Art Unit

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JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

Applicant	: Gregory J. Peterson	: DECISION ON REQUEST FOR
Patent Number	: 7628825	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,700	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1101** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Meyertons Hood Kivlin Kowert & Goetzel LLP
Suite 800
700 Lavaca
Austin, TX 78701

Mail Date: 04/21/2010

Applicant	: Homayoon Tajalli	: DECISION ON REQUEST FOR
Patent Number	: 7657927	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,704	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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JUN 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Loucks, et al.	:	DECISION REFUSING STATUS
Application No. 11/009,722	:	UNDER 37 CFR 1.47(a)
Filed: December 10, 2004	:	
Atty. Dkt. No.: 29939/03004B	:	
For: LAUNDRY BASKET WITH HIP	:	
HUGGING FEATURE	:	

This decision is in response to the petition under 37 CFR 1.47(a), filed March 25, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 10, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 14, 2005 requiring, *inter alia*, an executed oath or declaration and a surcharge to wit the instant petition was filed.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1) set forth above, petitioners state that inventor Fred Reber cannot be located or contacted. Petitioners indicate that attempts to reach the non-signing inventor at the non-signing inventor's last known address were unsuccessful as a packet was returned to sender as "unclaimed" by the United States Postal Service and that to date no response to a packet sent to the non-signing inventor via courier service has been received. These attempts to contact the non-signing inventor were in connection with U.S. App. No. 10/733,789 and not the instant application.

Petitioners have failed to establish that the non-signing inventor cannot be located or that diligent effort has been exerted to locate the non-signing inventor. Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). Petitioners have not established that diligent effort has been made to locate the non-signing inventor for presentation of the application papers.

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, human resource records, telephone directories, etc. should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

As to item (2), an oath or declaration in compliance with 37 CFR 1.63 is required. The declaration filed herewith is not acceptable as it relates to App. No. 10/733,389. Petitioners are required to submit a newly executed oath or declaration for the instant application in accordance with 37 CFR 1.63. Petitioners cannot rely upon 37 CFR 1.63(d) as the declaration submitted in the prior application was not properly executed in accordance with 37 CFR 1.63.

As to item (3), the current petition fee for a petition under 37 CFR 1.47 is $200.00. Petitioners have submitted $130.00. Thus, the remaining $70.00 has been charged to Deposit Account No. 13-2855.

As to item (4), the petition has set forth the last known address of the non-signing inventor.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand: U.S. Patent and Trademark Office
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) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:
Loucks, et al.	: DECISION REFUSING STATUS
Application No. 11/009,722	: UNDER 37 CFR 1.47(a)
Filed: December 10, 2004	:
Atty. Dkt. No.: 29939/03004B	:
For: LAUNDRY BASKET WITH HIP	:
HUGGING FEATURE	:

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed January 12, 2006.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the legal representative of the deceased inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed December 10, 2004 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed February 14, 2005 requiring, *inter alia*, an executed oath or declaration. A petition under 37 CFR 1.47 was filed March 25, 2005 and dismissed June 7, 2005.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

As to item (1) set forth above, petitioners state that inventor Fred Reber cannot be located or contacted. The instant renewed petition is accompanied by a copy of documents, including declarations, relating to U.S. App. No. 10/733,789 and not the instant application. These documents have not been reviewed as they do not relate to the instant application.

There is no indication that Rule 47 states was accorded to the '789 application such that the provisions of 37 CFR 1.47(d)(3) would be applicable. In fact, a cursory review of the application history of the '789 application reveals that it is abandoned. There is no indication that a petition to revivive has been filed in the '789 application.

As such, petitioners have failed to establish that the non-signing inventor cannot be located or that diligent effort has been exerted to locate the non-signing inventor. Where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration). See MPEP 409.03(c).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located with respect to the instant application.

As to item (2), an oath or declaration in compliance with 37 CFR 1.63 is required. The declaration filed herewith is not acceptable as it relates to App. No. 10/733,389. Petitioners are required to submit a newly executed oath or declaration for the instant application in accordance with 37 CFR 1.63. Petitioners cannot rely upon 37 CFR 1.63(d) as the declaration submitted in the prior application was not properly executed in accordance with 37 CFR 1.63.

Further correspondence with respect to this matter should be addressed as follows:

By mail: **Mail Stop Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (703) 872-9306

By hand:

U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 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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Orum & Roth LLC
53 W Jackson Boulevard
Chicago IL 60604-3606

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OCT 16 2006

OFFICE OF PETITIONS

In re Application of
ASPENS
Application No. 11/009,726
Filed: December 10, 2004
Attorney Docket No. 14040

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Gemrich: (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, Catherine L. Gemrich 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).

Applicant is reminded that there is no attorney of record at this time.

There is no outstanding Office action that requires a reply from the applicant.

The correspondence address remains unchanged.

Telephone inquires concerning this decision should be directed to Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

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CUMMINS-ALLISON CORP.
C/O NIXON PEABODY LLP
161 N. CLARK ST., 48TH FLOOR
CHICAGO, IL 60601

In re Application of :
John R. Blake, et al. :
Application No. 11/009,728 : ON PETITION
Filed: December 10, 2004 :
Attorney Docket No. 47171-00442USPT :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed April 8, 2008.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before April 7, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 7, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 8, 2008. On April 8, 2008, the present petition was filed. A Notice of Abandonment was subsequently mailed on April 23, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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Alexandria, VA 22313-1450
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PITNEY BOWES INC.
35 WATERVIEW DRIVE
P.O. BOX 3000
MSC 26-22
SHELTON CT 06484-8000

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OFFICE OF PETITIONS

In re Application of	:	
Biasi, et al.	:	
Application No. 11/009,742	:	DECISION GRANTING
Filed: December 10, 2004	:	PETITION
Attorney Docket No. F-839	:	
For: METHOD AND SYSTEM FOR DELIVERY OF ALTERNATIVE OR SUPPLEMENTAL MATERIAL TO A DESIGNATED RECIPIENT OF A MAIL PIECE	:	

This is a decision on the petition entitled, "PETITION FOR CORRECTION OF FILING DATE," filed November 14, 2005, requesting that the above-identified application be accorded a filing date of December 10, 2004, instead of the presently accorded filing date of March 17, 2005. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

The application was deposited on December 10, 2004. On February 7, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application ("Notice") stating that the application had been accorded a filing date of December 10, 2004 and informing petitioners that Figure 5 described in the specification appeared to have been omitted.

On March 17, 2005 petitioners filed a preliminary amendment seeking to add Figure 5.

An Updated Filing Receipt was mailed on March 31, 2005. The Update Filing Receipt stated that the filing date of the above-identified application was March 17, 2005.

In response to the Updated Filing Receipt, petitioners filed the present petition.

The mailing of a "Notice of Omitted Items" permits an applicant to either: (1) promptly establish prior receipt in the PTO of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Failure to select option (1) or (2) above is considered a constructive acceptance of the application as filed.

What is most salient to the analysis at hand is what petitioners did **NOT** do. In the instant case, petitioners did not select option (1) or (2). The March 17, 2005 preliminary amendment seeks to add Figure 5 and argues that Figure 5 does not contain new matter. Petitioners did not file a petition under 37 CFR 1.182 and required fee. Petitioners did not file a supplemental oath/declaration referring to Figure 5. Petitioners did not request a later filing date.

Instead, petitioners constructively accepted the application as filed on December 10, 2004 and submitted Figure 5 as an amendment to the drawings, so that the examiner could determine whether the additional sheet of drawing contains new matter (see MPEP 608.02(h)).

The application is entitled to a filing date of December 19, 2004. The Updated Filing Receipt was mailed in error. The petition is granted.

No petition fee has been or will be charged in connection with this matter.

The application is being returned to Office of Initial Patent Examination for further processing with a filing date of **December 10, 2004** and the mailing of a corrected filing receipt. Figure 5 was not filed with the original application papers. Once the application is assigned to an examiner, he/she will consider the March 17, 2005 Amendment seeking to add Figure 5.

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

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PATRICK W. RASCHE
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE, SUITE 2600
ST. LOUIS, MO 63102-2740

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of :
Akihiko Nishide et al :
Application No. 11/009,751 : ON PETITION
Filed: December 10, 2004 :
Attorney Docket No. 16CT03222

This is a decision on the petition, filed February 11, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

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 28, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2882 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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PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of :
Bryans, et al. :
Application No. 11/009,768 : ON PETITION
Filed: December 10, 2004 :
Attorney Docket No.PC26078A :

This is in response to the petition under 37 CFR 1.182, filed February 18, 2009, to withdraw a terminal disclaimer filed September 10, 2008.

The petition is granted.

Examiner David O'Dell has determined that the terminal disclaimer filed September 10, 2008, can be withdrawn as the terminal disclaimer was erroneously directed to United States Patent 7,048,145. Notwithstanding a prior determination a terminal disclaimer may have been required to overcome a double-patenting rejection over United States patent 7,084,145, Examiner O'Dell has since determined that no terminal disclaimer is required to be filed in the application. The terminal disclaimer is withdrawn, accordingly.

The application is being directed to Technology Center 1600, GAU 1625 for further processing including entry in the record of the withdrawal of the terminal disclaimer filed September 10, 2008.

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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/009,803	12/10/2004	Ronald Tharappel	COS-874 DIV	3650

25264 7590 05/27/2008
FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

EXAMINER
CHOI, LING SIU

ART UNIT	PAPER NUMBER
1796	

MAIL DATE	DELIVERY MODE
05/27/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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wk

Mailed: 5-27-08

In re application of	:	
Tharappel et al.	:	DECISION ON
Serial No. 11/009,803	:	PETITION
Filed: 12/10/2004	:	
For: Method for Transitioning Between Ziegler-Natta And Metalocene Catalysts In A Bulk Loop Reactor For The Production of Polypropylene	:	

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed January 24, 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 January 22, 2008 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.

11/009,803

The images will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Diane L. Kilpatrick-Lee
FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON TX 77267-4412

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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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JAN 02 2008

OFFICE OF PETITIONS

In re Application of Roberts et al. Application No. 11/009,807 Filed: December 10, 2004 Attorney Docket No. MS310136.01/MSFTP748US	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 2007 to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action, which was mailed on April 23, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was submitted on June 22, 2007. An advisory action was mailed on August 20, 2007 informing applicants that the amendment failed to place the application in condition for Allowance. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on July 24, 2007. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and fee, (2) the petition fee of $1540.00, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The two-month period for filing an appeal brief under 37 CFR 41.37(a)(1), accompanied by the fee required by 37 CFR 41.20(b)(2), runs from the date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 3621 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/009,817	12/10/2004	Georg Schramm	785-011996-US (PAR)

CONFIRMATION NO.
5218

PERMAN & GREEN
425 POST ROAD
FAIRFIELD CT 06824

Date Mailed: November 23, 2005

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☐ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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Paper No.

AARON NERENBERG
810 PINEWOOD DRIVE
ELKINS PARK PA 19027

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SEP 29 2008

OFFICE OF PETITIONS

In re Application of	:	
Walter Schaffner	:	DECISION ON PETITION
Application No. 11/009,856	:	
Filed: December 11, 2004	:	
Attorney Docket No. SCH 002	:	

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT UNDER 37 C.F.R. §1.181(a) filed May 5, 2008. This also responds to the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 12, 2008.

The petition under 37 CFR § 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely respond within the three-month statutory period set in the Notice of Allowance and Fee(s) Due mailed December 26, 2007. This period is not extendable. No reply having been received, the above-identified application became abandoned on September 30, 2005. A courtesy Notice of Abandonment was mailed on April 21, 2008.

In response, applicants filed the instant petition. Applicants assert that the issue fee (and publication fee) was timely filed on April 4, 2005 in response to the Notice of Allowance and Fee(s) Due mailed December 30, 2004.

ON PETIITON TO WITHDRAW
HOLDING OF ABANDONMENT UNDER 37 CFR 1.181

The facts and circumstances of the abandonment have been considered, and it has been determined that withdrawal of the abandonment is not warranted. As stated the application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed December 26, 2007. Applicants do not assert that this Notice was not received. Rather, applicants argue that their failure to respond should be excused as the period for response was extended by virtue of the mailing of a supplemental Notice of Allowability mailed February 21, 2008.

The Notice of Allowability mailed February 21, 2008 did not operate to extend the period for reply to the Notice of Allowance. No payment of the issue fee was received within the required timeframe as such the application properly became abandoned. By operation of law, the application became abandoned for failure to pay the issue fee (and publication fee) within the statutory period. Applicants' misunderstanding that the language in the Notice of Allowability extended the period for reply to the Notice of Allowance does not warrant withdrawal of the holding of abandonment. As this is a statutory period, the examiner cannot effectively withdraw the requirement to respond absent the vacating of the Notice or the withdrawal from issue of the application.

ON PETITION TO REVIVE UNDER 37 CFR 1.137(b)

On September 12, 2008, applicants filed an alternative petition for revival based on unintentional delay. On May 5, 2008, applicants submitted the required reply[1] in the form of payment of payment of the Issue Fee and Publication Fee. On September 12, 2008, applicants submitted payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

---

[1] There was no distinct but concurrent requirement for corrected drawings.

The Office of Data Management (formerly known as the Office of Patent Publication) has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

AARON NERENBERG
810 PINEWOOD DRIVE
ELKINS PARK PA 19027

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In re Patent No. 7,490,683 :
Walter Schaffner : LETTER
Issue Date: February 17, 2009:
Application No. 11/009,856 :
Filed: December 11, 2004 :
Attorney Docket No. SCH 002 :

This is in response to the LETTER filed February 13, 2009, requesting in effect processing of a divisional application filed May 5, 2008.

The request is **DISMISSED AS MOOT**.

Petitioner requests that papers filed with a PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed May 5, 2008 be processed as a divisional application. Petitioner states that the papers were mistakenly treated as part of the petition.

A review of the record confirms that a divisional application was filed along with the petition. Consequently, the divisional application was not processed as a separate application. As of the writing of this decision, the divisional application had been processed with a filing date of May 5, 2008 as a division of this application.

To avoid this consequence in the future, it is noted that a divisional application should not be filed with a petition to revive or with a petition to withdraw the holding of abandonment. It is noted that payment of the issue fee and the publication fee, not submission of a divisional application, was the reply required on petition. Moreover, even if an

application is being revived solely for continuity with a continuing application, the entire continuing application should not be submitted with the petition. Rather, applicant should point out that an application, citing the date of filing, is being filed contemporaneously (or was previously filed) for purposes of continuity, and if the application number is known cite the continuing application by number.

No further action is required by the Office.

Telephone inquiries related to this matter should be directed to the undersigned at 571-272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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P.O. Box 1450

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OFFICE OF PETITIONS

MARSHALL, GERSTEIN & BORUN LLP
(MICROSOFT)
233 SOUTH WACKER DRIVE
6300 SEARS TOWER
CHICAGO IL 60606

In re Application of	:	
Jean-Pierre DUPLESSIS, et al	:	
Application No. 11/009,858	:	ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 30835/305880	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 15, 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 April 1, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is October 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) the required statement of unintentional delay have been received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

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.

This application is being referred to Technology Center AU 2162 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Diane C. Goodwyn/
Petitions Examiner
Office of Petitions

cc: JEFFREY K. BERGER
ONE MICROSOFT WAY
REDMOND WA 98052-6399

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P.O. Box 1450
Alexandria, VA 22313-1450
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GATES & COOPER LLP
HOWARD HUGHES CENTER
6701 CENTER DRIVE WEST, SUITE 1050
LOS ANGELES CA 90045

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Julian Michael Tyszka et al.
Application No. 11/009,901
Filed: December 10, 2004
Attorney Docket No. G&C176.23-US-U1

DECISION DISMISSING PETITION

This is a decision on the Response to the Notice of Omitted Items filed March 3, 2005. The response is treated as a petition under 37 CFR 1.182.

In response to the Notice of Omitted Items mailed February 3, 2005, petitioner argues that drawing figures 2A-2C weren't in fact omitted, that they were included with the drawings filed upon application. Consistent with petitioner's arguments, a review of the file reveals that Figure 2A, Figure 2B and Figure 2C submitted with the petition are the same three panel views that were all on one page labeled as Figure 2 when the application was filed. If it was intended that the figures found on that page were to be Figure 2A, Figure 2B and Figure 2C, they weren't labeled as such and so it was impossible for USPTO to reach that conclusion.

It is obvious from the petition however, that no figures were actually missing on December 10, 2004. Rather, the problem with the drawings is that they were mislabeled. The drawings should have been labeled Figure 2A, Figure 2B and Figure 2C . However, the "Notice" mailed on February 3, 2005, was correct in stating that Figure 2A, Figure 2B and Figure 2C described in the specification appeared to have been omitted and thus will not be withdrawn.

The Petition is **DISMISSED**.

In view of the above, the present petition was not necessitated by any error on the part of the Office and therefore the petition fee was required and will not be refunded. It should be noted also that effective November 22, 2004, the petition fee was increased from $130.00 to $400.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004. Per the authorization found on the transmittal submitted with the petition, deposit account no. 50-0494 will be charged in the amount of $270.00 to make up the difference between what was

paid and what was due.

This matter is being referred to the Office of Initial Patent Examination (OIPE). OIPE will be notified to process the application with the filing date of December 10, 2004 and to use the application papers filed on that date and the corrected pages of drawings filed on March 3, 2005 with the instant petition.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
ATTN: INTELLECTUAL PROPERTY DEPTARTMENT DOCKETING
28 STATE STREET
BOSTON, MA 02109

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NOV 2 2 2005

OFFICE OF PETITIONS

In re Application of :
Mark Dinsmore and Thomas Engel :
Application No. 11/009,911 :
Filed: December 10, 2004 :
Attorney Docket No. 56249-141 :
For: Catheter with Inflatable Balloon :
Assembly and Optically Activated :
X-ray Source :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed September 8, 2005.[1]

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

A grantable petition under 37 CFR 1.47(a) requires

(1) proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers (specification, claims, and drawings),
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200 as specified in 37 CFR 1.17(g), and
(4) the last known address of the omitted inventor(s).

In addition to the above requirements, the signing inventors must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a).

The instant petition fails to satisfy item (2) above.

The signing inventors, not the assignee or an agent for the assignee, must sign the declaration on behalf of the non-signing inventor. See MPEP 409.03(a). A new declaration must be submitted.

[1] 37 CFR 1.47(b) is only available where none of the inventors sign the oath or Declaration. Since at least one of the named inventors has executed the application papers, the petition is appropriately treated under 37 CFR 1.47(a). MPEP 409.03(b).

In filing a new oath or declaration, petitioner should note that an oath or declaration signed by the available joint inventor with the signature block of the nonsigning inventor left blank may be treated as having been signed by all the available joint inventors on behalf of the nonsigning inventor, unless otherwise indicated.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON, MA 02110

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OFFICE OF PETITIONS

In re Application of :
Mark Dinsmore and Thomas Engel :
Application No. 11/009,911 :
Filed: December 10, 2004 :
Attorney Docket No. 56249-141 :
For: Catheter with Inflatable Balloon :
Assembly and Optically Activated :
X-ray Source :

Decision According
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 9, 2006.

The petition is **granted**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The declaration states a power of attorney is given to all the attorneys of Greenberg Traurig LLP. A power of attorney may not be given to a law firm. However, a power of attorney can be given to all attorneys associated with a specific customer number. A customer number does not appear on the declaration. However, considering all the facts, the Office will interpret the declaration as giving power of attorney to the attorneys associated with Customer number 35893.

A fee is unnecessary for a request for reconsideration under 37 CFR 1.47. The Office incorrectly charged $200 to petitioner's deposit account despite the fact the fee was previously paid on September 8, 2005. The Office will credit the $200 back to the deposit account.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Pet. Dec.

MAY 2 6 2005 JC104 PATENT & TRADEMARK OFFICE

PTO/SB/83 (04-05)
Approved for use through 11/30/2005. OMB 0651-0035
U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS

Application Number	11/009,915
Filing Date	December 13, 2004
First Named Inventor	FUREY, JAMES FRANCIS
Art Unit	N/A
Examiner Name	N/A
Attorney Docket Number	1004.002

To: Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Approved
[illegible] Director
Technology Center 2700
7/15/05

Please withdraw me as attorney or agent for the above identified patent application, and

☐ all the attorneys/agents of record.

☐ the attorneys/agents (with registration numbers) listed on the attached paper(s), or

☒ the attorneys/agents associated with Customer Number 44144

NOTE: This box can only be checked when the power of attorney of record in the application is to all the practitioners associated with a customer number.

The reasons for this request are:

CORRESPONDENCE ADDRESS

1. ☐ The correspondence address is NOT affected by this withdrawal.
2. ☒ Change the correspondence address and direct all future correspondence to:

☐ The address associated with Customer Number:

OR

☐ Firm or Individual Name	MR. JAMES FUREY				
Address	405 Washington Street Unit #6				
City	Brookline	State	MASSACHUSETTS	Zip	02446
Country	USA				
Telephone	1-617-713-0609	Email	JAMESFUREY@aol.com		
Signature					
Name	ANDREW BRENC	Registration No.	45,534		
Date	May 26, 2005	Telephone No.	703-963-6050		

NOTE: Withdrawal is effective when approved rather than when received. Unless there are at least 30 days between approval of withdrawal and the expiration date of a time period for response or possible extension period, the request to withdraw is normally disapproved.

This collection of information is required by 37 CFR 1.36. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Woodcock Washburn LLP
One Liberty Place - 46th Floor
Philadelphia, PA 19103

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FEB 06 2006

OFFICE OF PETITIONS

In re Application of	:	
David E. Luzzi	:	
Application No. 11/009,930	:	DECISION ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. UPNA-0026	:	

This is a decision on the petition under 37 CFR 1.181, filed on January 20, 2006, to withdraw the holding of abandonment.

On April 6, 2005, the Office mailed a Notice to File Missing Parts in a Nonprovisional Application, which set an extendable two-month period to reply. In the apparent absence of a timely filed response, the Office mailed a Notice of Abandonment on January 5, 2006.

Petitioner asserts that a proper response was filed timely. In support of the petition, petitioner submits a copy of a returned, date-stamped postcard receipt, acknowledging receipt of, *inter alia*, a Response to the Notice to File Missing Parts of Application (4 pgs.) and an executed Declaration and Power of Attorney (5 pgs.) in the USPTO on April 27, 2005. A copy of the response is included with this petition.

The Office has not located the original correspondence; however, Section 503 of the MPEP states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was filed timely in the USPTO on April 27, 2005, but was not matched with the application.

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby vacated and the holding of abandonment is withdrawn. The application will be returned to its pending status.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

COPY MAILED

JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Lawrence Kates	:	
Application No. 11/009,949	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. KATES.030A	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 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 Inventor Lawrence Kates 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 3661 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

Docket No.: S1459.70119US00
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Toru Sasaki et al.
Serial No.:	11/009,955
Confirmation No.:	9507
Issued:	March 9, 2010
Patent No.:	7,676,044
For:	MULTI-SPEAKER AUDIO SYSTEM AND AUTOMATIC CONTROL METHOD
Examiner:	G. C. Monikang
Art Unit:	2614

Certificate of Electronic Filing Under 37 CFR 1.8
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via the Office electronic filing system in accordance with § 1.6(a)(4).
Dated: 4-8-10 Signature: Janet D'Ermenegio-Ellis

REQUEST FOR CERTIFICATE OF CORRECTION PURSUANT TO 37 CFR 1.322

Attention: Certificate of Correction Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Upon reviewing the above-identified patent, Patentee noted a typographical error which should be corrected.

On the front page of the patent, Column 1, under (*) Notice, please remove the sentence "This patent is subject to a terminal disclaimer."

No terminal disclaimer was filed in this application. Therefore, this request does not involve correction of Applicant error. Accordingly, no fee is required.

1932253.1

Transmitted herewith is a proposed Certificate of Correction effecting such amendment. Patentee respectfully solicits the granting of the requested Certificate of Correction.

Applicant believes no fee is due with this request. However, if a fee is due, please charge our Deposit Account No. 23/2825 under Docket No. S1459.70119US00 from which the undersigned is authorized to draw.

Dated: 4-7-10

Respectfully submitted,

By Randy J. Pritzker

Randy J. Pritzker
Registration No.: 35,986
WOLF, GREENFIELD & SACKS, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
617.646.8000

1932253.1

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ——

DATE : 4/13/10

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/009955 Patent No.: 7676044 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: The sentence ~~of~~ on the front page of the patent # 7676044 ~~and~~ stating "This patent is subject to a terminal disclaimer" is removed.

G.M.

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JOHN P. O'BANION
O'BANION & RITCHEY LLP
400 CAPITOL MALL SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

Applicant	: Gregory J. Peterson	: DECISION ON REQUEST FOR
Patent Number	: 7628826	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,956	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patent
United States Patent and Trademark Office
P.O. Box 145
Alexandria, VA 22313-145
www.uspto.gov

MAILED
FROM DIRECTORS OFFICE

APR 28 2006

TECHNOLOGY CENTER 3600

MIELE LAW GROUP
2 SUMMER STREET, SUITE 306
NATICK, MA 01760

In re application of Gerold Panki et al. Application No. 11/009,963 Filed: December 10, 2004 For: AUTOMATED PLANNING AND MANUFACTURING SYSTEMS	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on February 13, 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 no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
571-272-6619

RAR/dew: 02/27/06

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UNITED STATES DEPARTMENT OF COMMERCE
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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Timothy V. Fields	: DECISION ON REQUEST FOR
Patent Number	: 7613613	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/009,966	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 05/17/2010

Applicant : Timothy V. Fields
Patent Number : 7613613
Issue Date : 11/03/2009
Application No : 11/009,966
Filed : 12/10/2004

: 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 **664** 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

AUG 17 2009

DI... OFFICE
TECHNOLOGY CENTER 2600

MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

In re Application of	:
Zhengyou Zhang *et al.*	: DECISION ON PETITION
Serial No.: 11009974	: *ACCEPTANCE OF COLOR DRAWINGS*
Filed: December 11, 2004	:
For: **SYSTEM AND METHODS FOR**	:
WHITEBOARD SCANNING TO OBTAIN A HIGH	:
RESOLUTION IMAGE	:

This is a decision on the petition under 37 CFR §1.184(a)(2), filed December 11, 2004 requesting acceptance color drawings.

The petition requests that the color drawings identified in FIGSS. 3, 4a-b, 6, and 11-14B be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3 (three) sets of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is **GRANTED.**

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

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United States Patent and Trademark Office
P.O. Box 1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS MI 48303

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OCT 19 2006

OFFICE OF PETITIONS

In re Application of :
Matsushima, et al. :
Application No. 11/009,995 :
Filed: December 10, 2004 :
Attorney Docket No. 9319I-277DVA :
For: METHOD FOR FORMING A BUMP, SEMICONDUCTOR DEVICE AND METHOD OF FABRICATING SAME, SEMICONDUCTOR CHIP, CIRCUIT BOARD, AND ELECTRONIC INSTRUMENT

ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed June 22, 2006, to withdraw the holding of abandonment.

The petition under 37 CFR 1.181 is **GRANTED**.

The Office contended that the above-identified application became abandoned for failure to submit a reply to the November 1, 2005 non-final Office action, which set an extendable three month extendable period for reply. No extensions of time or reply being received, the Office contended that this application became abandoned on February 2, 2006. A Notice of Abandonment was mailed on June 15, 2006.

Petitioners allege that the November 1, 2005 non-final Office action was not received.

The showing required to establish non-receipt of an Office communication must include:

1. 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.
2. 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]

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

Petitioners have submitted a copy of the docket record where the requirement would have been entered had the November 1, 2005 non-final Office action been received. In addition, practitioner referenced the record in the petition and stated that a review of the application's file jacket and docket record for the November 1, 2005 non-final Office action was fruitless. It is noted that the November 1, 2005 non-final Office action was returned to the Office on November 7, 2005.

Petitioners have established non-receipt. The petition is **granted**, the Notice of Abandonment is vacated, and the holding of abandonment is withdrawn.

After the mailing of this decision, the application will be returned to Technology Center A.U. 2815 for the re-mailing of the November 1, 2005 non-final Office action with a new period set for reply.

Telephone inquiries may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Advanced Medical Optics, Inc.
Legal Department
1700 E. St. Andrew Place
Santa Ana, CA 92705

Mail Date: 04/21/2010

Applicant	: Jim Deacon	: DECISION ON REQUEST FOR
Patent Number	: 7621949	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,003	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/09/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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

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Advanced Medical Optics, Inc.
Legal Department
1700 E. St. Andrew Place
Santa Ana, CA 92705

Mail Date: 05/18/2010

Applicant : Jim Deacon
Patent Number : 7621949
Issue Date : 11/24/2009
Application No : 11/010,003
Filed : 12/09/2004

: 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 **1349** 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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VENTURE PACIFIC LAW, PC
5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA CA 95054

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of Huiquan Kiu et al Application No. 11/010,041 Filed: December 10, 2004 Attorney Docket No. BYD-US2004-021	: : : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 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 on March 24, 2007, for failure to reply in a timely manner to the Restriction Requirement mailed February 23, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional

information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within

the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (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 March 24, 2007. 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 Venture Pacific Law, PC was counsel of record at the time of abandonment, they should explain why this application became abandoned while it was under their control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Venture Pacific Law, PC. 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 persons then at Venture Pacific Law, PC, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, 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 persons then at Venture Pacific Law, PC and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of

abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

In an Interview Summary Record conducted on September 7, 2007, for the above application, it states: "The Examiner telephoned to determine the status of this case. Attorney Emil Chang stated that no response had been filed."

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

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

VENTURE PACIFIC LAW, PC
5201 GREAT AMERICA PARKWAY, SUITE 270
SANTA CLARA CA 95054

MAILED

OCT 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Huiquan Liu et al	:	
Application No. 11/010,041	:	DECISION ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. BYD-US2004-021	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 26, 2009, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/election; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Restriction Requirement mailed February 23, 2007, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 1773 for appropriate action by the Examiner in the normal course of business on the reply received April 20, 2009.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

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DEC 0 5 2006

OFFICE OF PETITIONS

In re Application of	:	
Antoni s. Murcia et al	:	
Application No. 11/010,044	:	DECISION GRANTING PETITION
Filed: December 11, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 200210097-1	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 2006, and resubmitted on November 14, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of April 4, 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 the Office of Patent Publication.

Karen Creasy

Karen Creasy
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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OFFICE OF PETITIONS

MORGAN & FINNEGAN, L.L.P.
3 World Financial Center
New York, NY 10281-2101

In re Application of	:	
Andrew D. Harrison	:	DECISION ON REQUEST
Application No. 11/010,061	:	TO WITHDRAW FROM
Filed: December 10, 2004	:	RECORD
Attorney Docket No. 4520-4006US1	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed on September 14, 2005 and April 20, 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 Keith McWha on behalf of all attorneys or agents of record.

All the attorneys or agents of record have been withdrawn.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Applicant is reminded that there is no attorney of record at this time.

There is an outstanding Office action mailed March 21, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Andrea Smith at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: David Bucci

cc: Nigel Harrison
Azna Health & Wellness, Inc.
5210 Camel Park Drive
Charlotte, NC 28226

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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CLEMENTS WALKER
1901 ROXBOROUGH ROAD
SUITE 300
CHARLOTTE, NC 28211

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SEP 2 0 2007

OFFICE OF PETITIONS

In re Application of	:	
Andrew D. Harrison	:	
Application No. 11/010,061	:	DECISION ON PETITION
Filed: December 10, 2004	:	
Attorney Docket No. 4570	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 1, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 21, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time were timely obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 22, 2006. A Notice of Abandonment was mailed on December 8, 2006, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) a reply in the form of an amendment, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the failure to timely reply to the non-final Office action of March 21, 2006 is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has

not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $510 extension of time fee submitted with the petition on December 1, 2006 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account in due course.

This application is being referred to Technology Center AU 2837 for appropriate action in the normal course of business on the reply received December 1, 2006.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/21/2010

Applicant	: Mikko Nurmi	: DECISION ON REQUEST FOR
Patent Number	: 7587087	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,062	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

In re Application of	:	
Peter Schuler	:	
Application No. 11/010,088	:	DECISION ON PETITION
Filed: December 10, 2004	:	TO WITHDRAW
Attorney Docket No. 13937	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (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, Catherine L. Glemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

Catherine L. Glemrich has been withdrawn as attorney or agent of record; all other attorneys remain of record.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OFFICE of Data Management

BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

JUL 30 2008

In re Application of
HOWARTH, ARTHUR G. et al.
Application No. 11/010,089
Filed: December 9, 2004
Attorney Docket No.: CISCP393/493521

DECISION ON PETITION

This is a decision on the Petition To Withhold Notice Of Abandonment, received in the United States Patent and Trademark Office (USPTO) via fax on May 13, 2008.

The petition is **GRANTED.**

Any request for reconsideration of this decision, or as explained below, filing a petition seeking revival under 37 CFR § 1.137, must be filed within TWO MONTHS (2) from the mail date of this decision.

The application was held abandoned for applicant's failure to timely pay the issue fee as required in the Notice of Allowability mailed January 11, 2008, which set a three (3) month statutory period for reply. The Notice of Abandonment was mailed on May 5, 2008.

The Office acknowledges receipt of Part B-Fee(s) transmittal on May 13, 2008. Issue Fee Transmittal (PTOL85) to the PTO Central Fax number (571) 273-8300 on April 11, 2008 was not received "Mail Stop ISSUE FEE." As a result thereof, the patent application became abandoned.

On the PART B-FEE(S) TRANSMITTAL states Fax (571) 273-2885. **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. This form was signed by Mary Deauclaire was sent to the incorrect fax number.

Telephone inquires concerning this decision may be directed to the undersigned at 703-308-9250 ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : September 8, 2006

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/010096 patent No.: 7,044,441

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: _____

Edward Tosh — SPE

3745 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.: 7,246,689

DATED: July 28, 2008

INVENTOR(S): Nickerson et al

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

The inventors should now be listed as Randolph W. Huff, Hartsdale, NY (US); James A Nickerson, Spring Valley, CA (US); Rory Smith, El Cajon, CA (US); San Arranggi Soemardjan, El Cajon, CA (US)

/Walter Benson/
Supervisory Patent Examiner.Art Unit 2837

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Gauthier & Connors LLP
Suite 3300
225 Franklin Street
Boston, MA 02110

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OFFICE OF PETITIONS

In re Application of
Brown
Application No. 11/010,101
Filed: December 10, 2004
Attorney Docket No. GSI.7355

ON PETITION

This is a decision on the petition filed January 26, 2005, to accord the above-identified application a filing date of December 10, 2004, instead of December 11, 2004.

The petition is **granted**.

37 CFR 1.10(c) states,

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that there is a discrepancy between the filing date accorded by the Office to the correspondence and the date of deposit as shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation, may petition the Commissioner to accord the correspondence a filing date as of the "date-in" on the "Express Mail" mailing label or other official USPS notation, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date other than the USPS deposit date;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail;" and
>
> (3) The petition includes a true copy of the "Express Mail" mailing label showing the "date-in," and of any other official notation by the USPS relied upon to show the date of deposit.

All of the above requirements have been met. Therefore, the application will be accorded a filing date of December 10, 2004.

The fee for a petition under 37 CFR 1.53(b) and 37 CFR 1.183 is currently $400.[1] Petitioner submitted $130. An Office employee charged an additional $270 to petitioner's deposit account. A fee is unnecessary for a petition under 37 CFR 1.10. Therefore, the $400 will be credited back to petitioner's deposit account.

The file is now being forwarded to the Office of Initial Patent Examination to accord the application a filing date of December 10, 2004.

---

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

FILE COPY

OIPE JC130
JAN 19 2005
PATENT & TRADEMARK OFFICE

Practitioner's Docket No. HES 2004-IP-015386U1 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: B. Raghava Reddy et al.

Application No.: 11 / 010,117 Group No.: unknown
Filed: December 8, 2004 Examiner: unknown
For: Oil Well Sealant Compositions Comprising Alkali Swellable Latex

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700
2-10-04

PETITION TO MAKE SPECIAL BECAUSE OF APPLICANT'S AGE
(37 C.F.R. § 1.102(c) AND M.P.E.P. § 708.02 IV)

NOTE: See M.P.E.P. § 708.02, 7th ed.

Applicant hereby petitions to make this application special because applicant is over 65 years of age.

As a showing of this fact, accompanying this petition is:

(check one of the following)

☐ applicant's birth certificate.

☒ a declaration by the applicant that he/she is over 65 years of age.

No fee is required with this petition, in accordance with 37 C.F.R. § 1.102(c).

Craig W. Roddy
SIGNATURE OF PRACTITIONER

Reg. No.: 36,256

Craig W. Roddy
(Type or print name of practitioner)

Tel. No.: (580) 251-3012

P.O. Box 1431
P.O. Address

Customer No.:

Duncan, OK 73536-0440

UNITED STATES PATENT AND TRADEMARK OFFICE

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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In re Application of	:
Daniell et al.	:
Application No. 11/010,133	: DECISION ON PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 10150008	: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed April 21, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1).

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing

date of the parent nonprovisional application. See Manual of Patent Examining Procedure, 8th ed., August 2001), Section 201.11, Reference to First Application. The amendment filed April 21, 2008 fails to state the relationship of Application No. 09/079,640, filed May 15, 1998, to International Application No. PCT/IB98/01199, filed August 5, 1998.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition under 37 CFR § 1.78(a)(3) and a substitute amendment[1] stating the relationship of the prior-filed application to the instant application is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

UNITED STATES PATENT AND TRADEMARK OFFICE

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SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:	
Daniell et al.	:	
Application No. 11/010,133	:	DECISION GRANTING PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.78(a)(3) AND
Attorney Docket No. 1015008	:	UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed May 16, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120, 365(c) and 119(e) for the benefit of the prior-filed applications.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). *See* 35 U.S.C. §§ 120 and 365(c) and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all

other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 1638 for appropriate action on the amendment submitted June 4, 2008, including consideration by the examiner of the claim under 35 U.S.C. § §120 and 365(c) and 37 CFR 1.78(a)(2) for the benefit of the prior-filed applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/010,133	12/10/2004	1638	1330	1015008	40	3

CONFIRMATION NO. 4886

CORRECTED FILING RECEIPT

23557
SALIWANCHIK LLOYD & SALIWANCHIK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE, FL 32614-2950

OC000000030562435

Date Mailed: 06/19/2008

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)

Henry Daniell, Winter Park, FL;
Seung-Bum Lee, Orlando, FL;
Myung Ok Byun, Orlando, FL;

Power of Attorney: The patent practitioners associated with Customer Number 29652

Domestic Priority data as claimed by applicant

This application is a CON of 09/807,836 02/11/2002 ABN *
which is a 371 of PCT/US01/06271 02/28/2001
which claims benefit of 60/185,658 02/29/2000
This application 11/010,133
is a CIP of PCT/IB98/01199 08/05/1998
which is a CON of 09/079,640 05/15/1998 PAT 7,129,391
and claims benefit of 60/055,314 08/07/1997
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

INTERNATIONAL BUREAU OF THE WORLD INTELL PCT/IB98/01199 08/05/1998

If Required, Foreign Filing License Granted: 04/12/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/010,133**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

Genetic engineering of drought tolerance via a plastid genome

Preliminary Class

800

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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GENERAL ELECTRIC COMPANY
GLOBAL RESEARCH
ONE RESEARCH CIRCLE
PATENT DOCKET RM. BLDG. K1-4A59
NISKAYUNA, NY 12309

Mail Date: 05/04/2010

Applicant	: Rajib Datta	: DECISION ON REQUEST FOR
Patent Number	: 7633775	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/010,147	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **331** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SCAN! **Please forward case and paper to address shown below.**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/11/08

TO SPE OF : ART UNIT 2123 Thangavelu Kandasamy

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/010148 Patent No.: 7381591

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ Approved — All changes apply.
- ☒ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: - CHANGES TO THE REFERENCES CITED SECTION ARE NOT TO BE ENTERED. LISTING OF CLASS/SUB IN DOCUMENTS ARE IN ACCORDANCE WITH CURRENT PRACTICES AND PROCEDURES

* - CHANGES TO ABSTRACT AND SPEC OK TO ENTER

SPE PAUL RODRIGUEZ 2123
SUPERVISORY PATENT EXAMINER Art Unit
TECHNOLOGY CENTER 2100

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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200 SOUTH SIXTH STREET
SUITE 4000
MINNEAPOLIS MN 55402

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APR 2 9 2008

OFFICE OF PETITIONS

In re Application of
Alan Drizen and John Guerra
Application No. 11/010,154
Filed: December 10, 2004
Attorney Dck't. No. 51799.1

: ON PETITION

This application has come to the attention of this office by way of the petition under 37 CFR 1.59(b) and/ or 1.182 filed January 30, 2008 and supplemented on March 4, 2008, on behalf of GlycoBioSciences, Inc.("Glyco") requesting to expunge or delete information or otherwise correct the record of the above-identified application. A response to the January 30, 2008 petition was filed on February 22, 2008 on behalf of Helm Pharmaceuticals, Inc. ("Helm"). This decision is considered to address the petition filed January 30, 2008;however, it follows that by addresssing the January 30, 2008 petition, the remainder of the petitions are also addressed to the extent possible under USPTO rules and procedures.

The petition is dismissed.

On a one time basis only, a courtesy copy of this decision is being sent to Helm Pharmaceuticals, Inc. ("Helm") via legal representative Saul Ewing LLP. The USPTO will not undertake dual correspondence.

Both Helm and Glyco, are hereby placed on notice that, in the absence of a copy of a final decision from the highest court of competent jurisdiction that awards title to Helm, or finds that Glyco owns title in this application, any further attempt to divert correspondence or otherwise control the prosecution of this application will be regarded as correspondence filed for an improper purpose.

Both Helm's and Glyco's representatives are also placed on notice that the Office considers the filing of a petition or other paper on behalf of a party having no standing in an application, and not otherwise authorized by the rules of practice, to be a petition or paper presented for an improper purpose (37 CFR 10.18). For example, the filing of a paper on behalf of a party in situations not authorized by the rules of practice delays the examination and processing of applications, which may cause harm to the general

public if it results in the Office missing any one of the examination time frames specified in 35 U.S.C. §§ 154(b)(1)(A) or 154(b)(1)(B). Therefore, the Office may refer any further third party petition or communication other than that specifically provided for by the rules of practice in this or any other application to the Office of Enrollment and Discipline for appropriate action. Under the circumstances of this case, at this time, the USPTO must regard both Helm and Glyco to be third parties. The USPTO does not wish to become embroiled in any ownership dispute and necessarily remains neutral.

STATUTE AND REGULATION

35 U.S.C. § 152 states that:

> Patents may be granted to the assignee of the inventor of record in the Patent and Trademark Office, upon the application made and the specification sworn to by the inventor, except as otherwise provided for in this title.

35 U.S.C. § 261 states in pertinent part:

> Subject to the provisions of this title, patents shall have the attributes of personal property. Applications for patent, patents, or any interest therein, shall be assignable in law by an instrument in writing. The applicant, patentee, or his assigns or legal representatives may in like manner grant and convey an exclusive right under his application for patent, or patents, to the whole or any specified part of the United States.

37 CFR 1.182 states:

> All situations not specifically provided for in the regulations of this part will be decided in accordance with the merits of each case by or under the authority of the Director, subject to such other requirements as may be imposed, and such decision will be communicated to the interested parties in writing. Any petition seeking a decision under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 1.183 states:

> In 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. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

37 CFR 3.1 states in pertinent part:

For purposes of this part, the following definitions shall apply:

Assignment means a transfer by a party of all or part of its right, title and interest in a patent or patent application...(emphasis in original)

37 CFR 3.21 states in pertinent part:

An assignment relating to a patent must identify the patent by the patent number. An assignment relating to a national patent application must identify the national patent application by the application number (consisting of the series code and the serial number, e.g., 07/123,456).

37 CFR 3.54 states:

The recording of a document pursuant to § 3.11 is not a determination by the Office of the validity of the document or the effect that document has on the title to application, a patent, or a registration. When necessary, the Office will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office.

37 CFR 3.71 provides that:

(a) Patents — conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.

(b) Patents — Assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:

(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or

(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.

(c) Patents — Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

37 CFR 3.73 provides that:

> (a) The inventor is presumed to be the owner of a patent application, and any patent that may issue therefrom, unless there is an assignment. The original applicant is presumed to be the owner of a trademark application unless there is an assignment.
>
> (b) When an assignee seeks to take action in a matter before the Office with respect to a patent application, trademark application, patent, registration, or reexamination proceeding, the assignee must establish its ownership of the property to the satisfaction of the Director. Ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee or by specifying (e.g. copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office. The submission establishing ownership must be signed by a party authorized to act on behalf of the assignee. Documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office.

OPINION

Petitioner Helms styles itself as the rightful owner of the above-captioned application in that the above-named inventors Alan Drizen and John Guerra signed Binding Letters of Intent and Memorandum of Agreement. The effective date for Mr. Alan Drizen was April 5, 2007 and for Mr. John Guerra September 2, 2007. The September 2, 2007 Agreement between GlycoBioSciences, Inc. an Ontario Corporation ("Glyco") and Helm Pharmaceuticals, Inc". Glyco is requested to be expunged by the 37 CFR 3.73(b) statement filed January 11, 2008. Glyco contends based upon Canadian law they obtained the rights to the technology disclosed in Patent Application 11/010,154 because the technology was developed during their employment with Glyco and in the normal functions and obligations of their employment. Further, Glyco paid all expenses in developing, patenting, testing and marketing the products disclosed or suggested in the above-identified application. Glyco wishes to prevent Helm from having access to the record. Glyco in the alternative requests that the USPTO stay both petition proceedings and the prosecution of the application until the ownership issues can be determined in the ongoing Canadian Litigation.

Helm in turn requests the denial of Glyco's request and desires confirmation of Helm's ownership.

The assignment records of the USPTO shows **on its face** that Glyco conveyed whaterver interest it had in the above-identified application to Helm. Whereas there is no indication that inventors Drizen and Guerra has ever conveyed any right, title, or interest in the above-identified application to Glyco. On the record before the USPTO at this time neither Helm nor Glyco, is properly regarded as the assignee of this application. Furthermore, Glyco has failed to provide any evidence of ownership or evidence that Kevin Michael Drizen is the executor of

Alan Drizen's estate.

Under 37 CFR 3.71, the assignee of the *entire interest* may prosecute (or defer prosecution of) an application to the exclusion of the named inventors, or any previous assignee, and also revoke, or appoint, a power of attorney in an application or patent. Pursuant to 37 CFR 3.73(b), that putative assignee must present its showing consonant with 37 CFR 3.71 to the Office, either prior to, or concurrently with, the paper that requests the action. Accordingly, Glyco and Helm must establish that it is the current owner of the entire interest to the exclusion of the other, as the owner–or even the equitable owner-- of only a part interest in an application does not have the sole right to control prosecution of the application. See In re Goldstein, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988; see also In re Scold, 195 USPQ 335, 335 (Comm'r Pat. 1976); Ex parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR 3.73(b)) serve to assure that papers filed with the USPTO in an application or patent are submitted on behalf of the owner(s) of the entire interest in the application or patent. See Goldstein, 16 USPQ2d at 1964.

Inventorship is the starting point for determining ownership, see University Patents, Inc. v. Kligman, 762 F.Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991), and unless, there is an assignment, the USPTO will presume the named inventor to be the owner, see 37 CFR 3.73(a). Inspection of relevant records reveals that a 5 pages of documents facially representing itself as an "assignment" executed April 2, 2007 and April 5, 2007and the document dated September 2, 2007, wherein the named inventors allegedly assigned his rights to Helm, was recorded against the instant application on November 8, 2007 at reel 020086 frame 0288.

Recordation of an assignment document is a ministerial act and is not a determination by the U.S. Patent and Trademark Office as to the validity of the assignment or ownership of the invention. The records provided by Helm, the Letters of Binding Intent, do not show that Drizen assigned the invention to Glyco and then Glyco assigned the invention to Helm. Without the assignment of the invention from Drizen to Glyco, there was nothing to assign to Helm.

However, as the record does not show that Glyco is the assignee of the entire interest of the above-identified application within the meaning of the statutes and regulations, the requested relief(s) cannot be granted to Glyco. The USPTO has consistently interpreted the applicable statutes and regulations relating to the recording of assignment documents in the PTO as applying only to instruments which **on their face** affect title to a patent or *application*. See In re Farrand, 1912 C.D. 227 (Comm'r Pat. 1912); In re Charlton, 1903 C.D. 159 (Comm'r Pat. 1903).

That is, petitioner Glyco has not shown, and inspection of the proffered "assignment" does not reveal, that Drizen has assigned his right, title and interest in the above-identified *application* to Glyco within the meaning of 35 U.S.C. § 261 and 37 CFR §§ 3.1, 3.31, 3.71, 3.73. The documents do not indicate that any invention made by the inventor while he worked for Glyco was automatically assigned to Glyco. Glyco contends that upon the death of inventor Drizen, the Drizen estate agreed to transfer all of its rights, title and interest in Glyco Intellectual Property to Glyco. While petitioner contends that the instant invention was made during the

time the inventor was employed by Glyco, such that Glyco is the assignee of the entire interest herein, that controversy is properly resolved by the ongoing litigation. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as such, the USPTO will not permit itself to become embroiled in ownership disputes. See, Ex Parte Harrison, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924); In re Moller, 1904 Dec. Comm'r Pat. 70, 71 (Comm'r Pat. 1904); Ex Parte McTammany, 1900, 168, 181 (Comm'r Pat. 1900); Ex Parte McFarlane, 1896 Dec. Comm'r Pat. 37,38 (Comm'r Pat. 1896); Ex Parte Gallatin, 1892 Dec. Comm'r Pat 106 (Comm'r Pat. 1892).

Indeed, the USPTO has no authority to decide ownership issues. See Cedars-Sinai Medical Center v. Watkins, 11 F.3d. 1573, 1581 n.10, 29 USPQ2d 1188, 1194 n.10 (Fed. Cir 1993), cert. denied, 114 S. Ct. (1994). Rather, state law governs contractual obligations and transfers of property rights, including those relating to patents. See Regents of the University of New Mexico v. Knight, 66 USPQ2d 1001, 1008 (Fed. Cir. 2003). The USPTO cannot settle disputes as to title, or convert whatever equitable title that might exist in this application for petitioner simply by inspection of the documents upon which petitioner relies. Rather, a judicial tribunal is the appropriate forum to resolve such controversy. See Jim Arnold Corp. v. Hydrotech Sys., Inc., 109 F.3d 1567, 1572, 42 USPQ2D 1119, 1123 (Fed. Cir. 1997)("the question of who owns the patent right and on what terms typically is a question exclusively for state courts"); Roach v. Crouch, 24 N.W. 2d 400, 33 USPQ2D 1361 (Iowa 1994) (patent ownership issue properly triable in state court); In re Haines, 1900 C.D. 102, 103 (Comm'r Pat. 1900)(same).

Both Helm and Glyco have filed statements under 37 CFR 3.73(b) asserting that each has the entire right and interest in the above-referenced application and that each can direct the prosecution of this application to the exclusion of the other. In accordance with the Manual of Patent Examining Procedure, section 324 IX, "Establishing Right of Assignee to Take Action",

> Generally, where there are two or more conflicting 37 CFR 3.73(b) statements in an application, the ownership entity that filed that application will be permitted to conduct the prosecution, and the other party that submitted a 3.73(b) statement to establish ownership may wish to consider filing an application under 37 CFR 1.47.

In this instance, the party that filed the present application is Alan Drizen and John Guerra. It is this entity that has the right to prosecute this application. Both Helm and Glyco are free to file their own applications under 37 CFR 1.47.

The petition seeking that the USPTO acknowledge that Glyco is the assignee of the entire interest, and, in turn, that Glyco as the assignee of the entire interest may prosecute the application to the exclusion of Helm within the meaning of MPEP 324 and 37 CFR 3.73(b) must be **dismissed**.

A distinction must be made between a property right to an "invention," and a property right to a patent *application*, as a given patent *application* may or may not embody that "invention."

Insofar as this case is concerned, the relevant statutes and regulations only speak to the recordation of the assignment of "applications for patent", not inventions. See, e.g., 35 USC § 261 and 37 CFR 3.11 *et seq.* Likewise, while 35 USC § 100 defines invention, § 100 does not define invention as being synonymous with, or meaning, "application for patent." This distinction is further evident from inspection of other sections of Title 35: e.g., 35 §§ 111, 119, 120, 121, 131.

As set forth in 37 CFR 3.54, and MPEP 317.03, the recordation of a document proffered as an "assignment" is **not** a determination by the Office of the validity of the document or the effect that document has on the title to an application or patent. As further noted by the foregoing authorities, when, as here, it becomes necessary, the USPTO will determine what effect a document has, including whether a party has the authority to take an action in a matter pending before the Office. See also MPEP 324.

The USPTO has long declined to make a determination as to whether a given instrument which purports to be an assignment of the rights to an "invention", operates to convey the rights for a given *application*. See e.g., Ex Parte Lorentz, 1892 C.D. 77, 78 (Comm'r Pat. 1892); Ex Parte Chillingsworth, 1897 C.D. 72 (Comm'r Pat. 1897); Ex parte Williamson, 1899 C.D. 177, 178 (Comm'r Pat. 1899); Ex Parte Long, 1903 C.D. 152, 153 (Comm'r Pat. 1903).

It follows that petitioner has failed to establish its ownership of this application within the meaning of 37 CFR 3.73(b) and MPEP § 324. As such, and further in view of the fact that Kevin Michael Drizen is not a named inventor in this application, petitioner must regarded as a third party with respect to this patent application, and the requested relief cannot be granted.

Third party petitioner is, in essence, seeking to have the PTO make a determination from the proffered documentation, and settle its self created dispute as to the title of this application. It is well settled that the Office is not the appropriate forum for resolving a dispute concerning the ownership of an application, and, as noted above, the PTO will not permit itself to become embroiled in ownership disputes. It follows that, as the ownership issues pertaining to this application are before a court of competent jurisdiction, the PTO will take no further action on the issue of ownership and control until such time as a court of competent jurisdiction rules on this matter.

With respect to the request for extraordinary relief under 37 CFR §§ 1.182 or 1.183:

For the reasons noted above, petitioner must be regarded as a third party with respect to this application. A mere assertion of a right to have the Office act in accordance with the statutes and regulations does not confer standing upon a third party. The Boeing Company v. Commissioner of Patents and Trademarks, 853 F.2d 878, 7 USPQ2d 1487 (Fed. Cir. 1988). Further, a third party does not have standing to challenge Office decisions made *ex parte*. See, e.g., Godtfredsen v. Banner, 503 F.Supp 642, 647, 207 USPQ 202, 207 (D.D.C. 1980), Syntex v. United States Patent and Trademark Office, 882 F.2d 1570, 1574-1575, 11 USPQ2d 1866, 1870 (Fed. Cir. 1989), Hitachi Metals Ltd. v. Quigg, 776 F.Supp 3, 20 USPQ2d 1920 (Fed. Cir.

1989). There is nothing in the patent statutes which gives rise to a right in nonapplicants to object to the way in which patent applications of others are treated by the Patent and Trademark Office. A third party has no right to intervene in a particular patent application. Animal Defense Fund v. Quigg, 932 F.2d 920, 930, 18 USPQ2d 1677, 1685 (Fed. Cir. 1991); Hallmark Cards, Inc. v. Lehman, 959 F. Supp. 539, 42 USPQ2d 1134 (D.D.C. 1997). Since third party petitioner has indicated that petitioner is now involved in litigation regarding ownership of the above-identified application, then petitioner tacitly concedes that petitioner has an avenue for seeking relief with respect to the issues raised herein. Petitioner is reminded that a standard principle of statutory construction is that, absent legislative intent to the contrary, when a statute provides a specific remedy for a specific situation, the statute is deemed to exclude other remedies for such situation. See National R.R. Passenger Corp. v. National Ass'n of R.R. Passengers, 414 U.S. 453, 458 (1974). In view of the above-noted litigation, it is not necessary, much less proper, to exercise 37 CFR 1.182 or 1.183 so as to fashion yet another remedy resolving the ownership issues for third party petitioner.

Moreover, even assuming, *arguendo*, that third party petitioner has standing to request relief under 37 CFR 1.182 or 1.183 with respect to this application, the circumstances of this case simply do not warrant suspension of prosecution to await resolution of the ownership issues.

Since neither the named inventors nor Helm has currently agreed on the record to accept the patent term adjustment consequences of suspension of prosecution herein, it would not be appropriate to place the wishes of Glyco, who is currently a third party in this matter, above the real party in interest.

However, the USPTO stands ready to consider any proper request for stay of prosecution filed by the Executor for Allan Drizen's estate and John Guerra.

Request for Expungement

A request to expunge the assignment records has been filed by both Helm and Glyco. It is not in keeping with USPTO practice to expunge assignment records since a complete history of all claimed interest must be maintained, even if an assignment is later found to be invalid, See In re Ratny, 24 USPQ2d 1713 (Comm'r Pat. 1992). In those limited situations where expungement has been allowed it must be shown that the , 1) the normal corrective procedures in MPEP 323.01(a)-(c) will not provide adequate relief and 2) the integrity of the assignment records will not be affected by the grantiing of this petition, MPEP 323.01(d). No argument has been put forth that the normal corrective procedure are inadequate or that the integrity of the assignment records will not be affected. Therefore, the requested relief of expungement is Dismissed

DECISION

For the reasons noted above, (1) the third party request to take action in this application is

dismissed as third party petitioner has failed to adequately establish its right within the meaning of 37 CFR 3.71(b)(1) and 3.73(b)to take action herein, (2) the third party request to suspend prosecution of this application is likewise **dismissed**.

The petition to expunge the assignment is **Dismissed**.

This application is being brought to the attention of the Technology Center Art Unit 1618 for examination in due course.

Inquiries related to this decision should be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

cc: Kurt L. Ehresman
Saul Ewing LLP
Penn National Insurance Plaza
2 North Second Street, 7th Floor
Harrisburg, PA 17101

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SUITE 1340
ALBUQUERQUE NM 87102

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OFFICE OF PETITIONS

In re Application of	:	
Wayne K. AUGE, II et al.	:	
Application No. 11/010,174	:	DECISION ON PETITION
Filed: December 10, 2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 31128-US-575	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 01, 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 **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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.

This application is being forwarded to Technology Center Art Unit 3739 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/010,174	12/10/2004	3739	750	31128-US-575	30	3

CONFIRMATION NO. 3145

CORRECTED FILING RECEIPT

OC000000038579880

5179
PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

Date Mailed: 11/05/2009

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)

Wayne K. Auge II, Santa Fe, NM;
Roy E. Morgan, San Jose, CA;

Assignment For Published Patent Application

MAP Technologies, LLC, Santa Fe, NM

Power of Attorney: The patent practitioners associated with Customer Number 05179

Domestic Priority data as claimed by applicant

This application is a CON of PCT/US03/18575 06/10/2003
which claims benefit of 60/387,775 06/10/2002
This application 11/010,174
is a CIP of 11/006,079 12/06/2004
which is a CIP of PCT/US03/18116 06/06/2003
which claims benefit of 60/387,114 06/06/2002
and claims benefit of 60/387,775 06/10/2002
This application 11/010,174
is a CIP of 10/119,671 04/09/2002 PAT 6,902,564
which claims benefit of 60/312,965 08/15/2001
This application 11/010,174
is a CIP of 10/157,651 05/28/2002 PAT 7,066,932
which claims benefit of 60/293,809 05/26/2001

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/010,174**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****
Title

Methods for electrosurgical electrolysis

Preliminary Class

607

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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ABBOTT PARK IL 60064-6008

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OFFICE OF PETITIONS

In re Application of	:	ON APPLICATION FOR
Randolph et al.	:	PATENT TERM ADJUSTMENT
Application No. 11/010177	:	AND REQUEST FOR
Filing or 371(c) Date: 12/10/2004	:	RECONSIDERATION OF
Attorney Docket No.	:	PATENT TERM ADJUSTMENT
7265USO2	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §§ 1.702-1.705, filed December 14, 2009. Applicant believe that the total patent term adjustment under 37 C.F.R. §§ 1.702-1.704 should be 910 days as of December 15, 2009, not 502 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. The request is properly treated under 37 CFR 1.705(b).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

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 Attorney Derek Woods at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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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.

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MAR 29 2010

OFFICE OF PETITIONS

In re Application of	:	
KIM, Soo-Kwang et al.	:	
Application No. 11/010,195	:	DECISION ON PETITION
Filed: December 09, 2004	:	TO WITHDRAW
Attorney Docket No. **4856-0102PUS1**	:	FROM RECORD

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 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Leonard Svensson on behalf of all attorneys of record who are associated with customer No. 02292. All attorneys/agents associated with the Customer Number 02292 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 Soo-Kwang Kim 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: **SOO-KWANG KIM**
18761 PORTOFINO DRIVE
IRVINE CA 92612

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OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of
Ohno, et al.
Application No. 11/010,199
Filed: December 10, 2004
Attorney Docket No. NMCI P019

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR § 1.78(a)(3) , filed May 1, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of prior-filed international Application No. PCT/JP2004/005078, filed April 8, 2004, set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 365(c) 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 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed international application. In order for this application to be entitled to the benefit of the prior-filed international application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the

fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205. 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 3723 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the prior-filed international application.

Christina Y. Donnell for

FRANCES HICKS
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/010,199	12/10/2004	3723	865	NMCIP049	20	2

CONFIRMATION NO. 9247

CORRECTED FILING RECEIPT

OC000000022794092

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 03/08/2007

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Hisatomo Ohno, Tokyo, JAPAN;
Toshihiro Izumi, Tokyo, JAPAN;
Mitsuru Saito, Tokyo, JAPAN;
Takuya Nagamine, Tokyo, JAPAN;
Claughton Miller, Hayward, CA;
Ichiro Kodaka, Hayward, CA;

Power of Attorney: The patent practitioners associated with Customer Number **022434**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2003-107863 04/11/2003
JAPAN PCT/JP04/05078 04/08/2004

If Required, Foreign Filing License Granted: 01/18/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/010,199

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

POLISHING PAD AND METHOD OF PRODUCING SAME

Preliminary Class

451

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier

license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

DATE 9 | 15 | 07 APPLICATION NUMBER 11/010,207

DOC CODE Pet. Dec. Pubs DOC DATE 9 | ~~15~~ 17 | 07

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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STEVEN J. ADAMSON, PC
P.O. BOX 5997
PORTLAND OR 97228

COPY MAILED

SEP 17 2007

OFFICE OF PETITIONS

In re Application of
Shane Chen
Application No.11/010,207
Filed: December 10, 2004
Attorney Docket Number: CID001-CIP
Title of Invention: Turnable Wheeled Skate

ON PETITION

This is a decision on the petition filed August 24, 2007, under 37 CFR 1.137(b) to revive the above-identified application.

This application became abandoned for failure to timely submit the issue and publication fees, as required by the Notice of Allowance and Fee (s) Due which was mailed March 23 , 2007. 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 June 24, 2007. A Notice of Abandonment was mailed on July 20, 2007.

The requirements for a grantable petition under 37 CFR 1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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Paper No. 082007

ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MO 63102

AUG 17 2007

In re Application of:
Jacek Korczynski, et al
Serial No.: 11/010229
Filed: December 10, 2004
Attorney Docket No.: **BUS-027118**

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

The purpose of this communication is to inform you that the above-identified application is being withdrawn from issue pursuant to 37 CFR § 1.313.

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed November 22, 2006, are hereby vacated.

The application is being withdrawn to permit reopening of prosecution. The reasons therefor will be communicated to you by the examiner.

Upon receipt of a new Notice of Allowance and Issue Fee Due, applicant may request that any 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 Paula Bradley at (571) 272-2800 ext 33.

The above-identified application is being forwarded to the examiner for prompt appropriate action.

Richard K. Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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JONES DAY
500 GRANT STREET
SUITE 3100
PITTSBURGH PA 15219-2502

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SEP 03 2008

OFFICE OF PETITIONS

In re Application of	:	
Ben Ba	:	
Application No. 11/010235	:	DECISION
Filing or 371(c) Date: 12/10/2004	:	ON PETITION
Patent No.: 7164600	:	
Issue Date: 01/16/2007	:	
Attorney Docket Number:	:	
DB001150-000	:	

This is a decision on the correspondence filed May 10, 2007, to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. The request is properly treated as a petition under 37 CFR 3.81(b)[1].

The Petition is **granted**.

A review of Office records reveals that the Office did not receive an Issue Fee Transmittal Form (PTOL-85B) identifying the assignee, with the issue fee payment on November 7, 2006. As such, the error appears to be that of Petitioner[2].

The petition was accompanied by a certificate of correction as required by 3.81(b), and the fee submitted with the present petition. Further, Office assignment records reflect MICRON TECHNOLOGY, INC., is the assignee of record. 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 after issuance of this application into a patent.

This matter is being referred to the Certificates of Correction Branch for consideration of the additional error putatively the fault of this Office that was included on the Certificate of Correction filed with the present petition on May 10, 2007.

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

[2] If applicant is able to demonstrate that a PTOL-85B accompanied the issue fee payment, Applicant should file a petition under 37 CFR 1.181 requesting a refund of the fee(s).

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate 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 after issuance of this application into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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SUITE 3100
PITTSBURGH PA 15219-2502

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NOV 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
Ben Ba	:	
Application No. 11/010235	:	DECISION
Filing or 371(c) Date: 12/10/2004	:	ON PETITION
Patent No.: 7164600	:	
Issue Date: 01/16/2007	:	
Attorney Docket Number:	:	
DB001150-000	:	

This is a decision on the petition under 37 CFR 1.181, filed September 29, 2008. The petition requests a refund of the processing fee for a certificate of correction.

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(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

On May 10, 2007, Petitioner filed a request for certificate of correction to correct the assignee data appearing on the issued patent under 37 CFR 3.81(b). Petitioner asserted that the mistake(s) were that of this Office and as a result, that no fee was due. Office assignment records reflected that MICRON TECHNOLOGY, INC., was the assignee of record, and that the request complied with the provisions of 37 CFR 3.81(b). The petition was granted and the Patent referred to the Certificates of Correction Branch for consideration of additional errors putatively the fault of this Office that was included on the Certificate of Correction that was filed with the petition on May 10, 2007

The Decision noted that if applicant was able to demonstrate that a PTOL-85B accompanied the issue fee payment, then Petitioner should file a petition under 37 CFR 1.181 requesting a refund of the fee(s).

The present petition

Petitioner files the present petition and a copy of a return-receipt postcard acknowledging receipt by this Office of, inter alia, a PTOL –85B on November 7, 2006. Petitioner concludes that it has demonstrated that the PTOL-85B was received by this Office such that the error in failing to include the name of assignee MICRON TECHNOLOGY, INC., on the patent was that of this Office.

Analysis and conclusion

While admittedly the return-receipt acts as prima facie evidence of receipt of the PTOL-85B, the return-receipt postcard fails to corroborate that the correct assignee data was listed correctly thereon. This Office properly requires adequate corroboration.[1] A copy of the PTOL-85B is required.

Office records reveal that this Office charged processing fee, $130.00 (for processing of the certificate of correction), and the fee for the certificate of correction, $100.00, twice, on August 22, 2008 and again on September 3, 2008. A refund of the second fees has been credited to Petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

[1] In response to objections to the use of affidavits and/or declarations to establish a filing date, the Office indicated that such affidavits or declarations are considered to explain activities that are supported by exhibits (*i.e.*, corroborate evidence). See "Revision of Patent Procedure," 48 *Fed. Reg.* at 2702-03, 1027 *Off. Gaz. Pat. Office* at 27-28.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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FISH & RICHARDSON P.C.
P.O BOX 1022
MINNEAPOLIS MN 55440-1022

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MAR 10 2010

In re Patent No. 7,576,215
Collini et al.
Issue Date: August 18, 2009
Application No. 11/010,236
Filed: December 10, 2004
Attorney Docket No. 16156-061001/AM101500
Title: QUINOLINES AND PHARMACEUTICAL COMPOSITIONS THEREOF

DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION

This is a decision on the petition filed on October 19, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-seven (997) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred ninety-six (996) 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 December 11, 2007 and ends on March 15, 2009, the day before the RCE was filed, and is 461 days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 996, not 997 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 **nine hundred ninety-six (996)** days.

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 Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,576,215 B2

DATED : **August 18, 2009** **DRAFT**

INVENTOR(S) : Collini 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 535 days

Delete the phrase "by 535 days" and insert – by 996 days--

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

Mail Date: 04/21/2010

Applicant	: Munenori Sawada	: DECISION ON REQUEST FOR
Patent Number	: 7627907	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,245	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/10/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1067** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAY 24 2007

OFFICE OF PETITIONS

BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

In re Application of	:
Marc Lazare	:
Application No. 11/010,283	: DECISION ON PETITION
Filed: December 14, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 121964.00101	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 2, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **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 amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In order for an application to claim the benefit of a prior-filed copending nonprovisional application or international application designating the United States of America, each prior-filed application must name as an inventor at least one inventor named in the later-filed application and disclose the named inventor's invention claimed in at least one claim of the later-filed application in the manner provided by the first paragraph of 35 U.S.C. 112. Petitioner has claimed priority to application no. 10/156,541 which does not have at least one common inventor named in the prior filed application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Shirene W Brantley

Shirene W. Brantley
Senior Petitions Attorney
Office of Petitions

DATE 11/ /07 APPLICATION NUMBER 11/010,283

DOC CODE Pet. Doc. TC DOC DATE 11/ /07

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DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON DC 20037

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of
Marc Lazare
Application No. 11/010,283
Filed: December 14, 2004
Attorney Docket No. 121964.00101

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 24, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be

accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Charlema Grant at (571) 272-3215. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3732 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/010,283	12/14/2004	3732	725	121964.00101	25	4

CONFIRMATION NO. 5403

CORRECTED FILING RECEIPT

27557
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC000000027304590

Date Mailed: 12/14/2007

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)

Marc Lazare, Jericho, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CIP of 10/651,375 08/28/2003
which is a CIP of 10/156,451 05/28/2002 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 02/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/010,283**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Dental appliance and method for positioning and holding inlays and onlays during bonding and cementation process

Preliminary Class

433

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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United States Patent and Trademark Office
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SEP 0 2 2008

OFFICE OF PETITIONS

Blank Rome LLP
600 New Hampshire Avenue, N.W.
Washington, DC 20037

In re Application of	:	
Marc Lazare	:	
Application No. 11/010,283	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 121964-00101	:	FROM RECORD
	:	

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 27, 2008.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed. Refer to Form No. PTO/SB/83 (Updated 4/2008).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 6735.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marc Lazare
117 Estate Drive
Jericho, NY 11753

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

Blank Rome, LLP
600 New Hampshire, N.W.
Washington, DC 20037

COPY MAILED
NOV 25 2008

In re Application of	:	
Marc Lazare	:	
Application No. 11/010,283	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 121964-00101	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed October 1, 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 Tara L. Laster on behalf of all attorneys/agents associated with customer number 27557. All attorneys/agents associated with customer number 27557 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address has been changed and is copied below.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Marc LaZare
117 Estate Drive
Jericho, NY 11753

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
11/010,283	12/14/2004	Marc Lazare	121964.00101

CONFIRMATION NO. 5403

POWER OF ATTORNEY NOTICE

27557
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC000000033288451

Date Mailed: 11/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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
11/010,283	12/14/2004	Marc Lazare	121964.00101

CONFIRMATION NO. 5403

POWER OF ATTORNEY NOTICE

27557
BLANK ROME LLP
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

OC000000033288451

Date Mailed: 11/24/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/01/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/010,294	12/14/2004	Tadatomi Nishikubo	YOS-0043/DIV 2	5390

23353 7590 01/17/2006

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON, DC 20036

EXAMINER
PENG, KUO LIANG

ART UNIT	PAPER NUMBER
1712	

DATE MAILED: 01/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG

Paper No. 1/10/06

Applicant: Nishikubo et al. :
Serial No. 11/010,294 :
Filed: December 14, 2004 :
For: RESIN CURABLE WITH ACTINIC RADIATION, PROCESS FOR THE PRODUCTION THEREOF, AND PHOTOCURABLE AND THERMOSETTING RESIN COMPOSITION

DECISION ON PETITION

This is a decision on the PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.181, TREATED as a PETITION UNDER 37 CFR 1.48(a), filed December 20, 2005, to correct inventorship by adding two names inadevertantly omitted at filing of Masaki Sasaki and Masatoshi Kusama. It is noted that the patentee has not met the *highlighted* requirement(s) of:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition is **DENIED**.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700
Chemical Materials & Engineering

RADER FISHMAN & GRAUER PLLC
Lion Building
1233 20th Street N.W., Suite 501
Washington, DC 20036

1712

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG

Paper No. 11/16/06

Applicant: Nishikubo et al. :
Serial No. 11/010,294 :
Filed: December 14, 2004 :
For: RESIN CURABLE WITH ACTINIC RADIATION, PROCESS FOR THE PRODUCTION THEREOF, AND PHOTOCURABLE AND THERMOSETTING RESIN COMPOSITION

DECISION ON PETITION

This is a decision on the SECOND PETITION TO CORRECT INVENTORSHIP FILED UNDER 37 CFR 1.48(a) on May 3, 2006, being TREATED UNDER 37 CFR 1.324 to correct inventorship by adding two names inadevertantly omitted at filing of Masaki Sasaki and Masatoshi Kusama. It is noted that the patentee has met all the necessary requirement(s) of:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Therefore the names of Masaki Sasaki and Masatoshi Kusama will be added to file record.

The petition is **GRANTED**.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700
Chemical Materials & Engineering

RADER FISHMAN & GRAUER PLLC
Lion Building
1233 20th Street N.W., Suite 501
Washington, DC 20036

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 11/13/07

Paper No.: ____

TO SPE OF : ART UNIT 1793

SUBJECT : Request for Certificate of Correction on Patent No.: 7192475

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:

J.A. LORENGO
SUPERVISORY PATENT EXAMINER
SPE

1793
Art Unit

UNITED STATES PATENT and TRADEMARK OFFICE
UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed:

RPG

Paper No. 7/18/06

Applicant: Nishikubo et al. :
Serial No. 11/010,317 :
Filed: December 14, 2004 :
For: RESIN CURABLE WITH ACTINIC RADIATION, PROCESS FOR THE PRODUCTION THEREOF, AND PHOTOCURABLE AND THERMOSETTING RESIN COMPOSITION

DECISION ON PETITION

This is a decision on the SECOND PETITION TO CORRECT INVENTORSHIP UNDER 37 C.F.R. 1.48(a), filed May 3, 2006, to correct inventorship by adding two names inadevertantly omitted at filing of Masaki Sasaki and Masatoshi Kusama. It is noted that the patentee has now met the requirement(s) of:

(1) A request to correct the inventorship that sets forth the desired inventorship change;
(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
(4) The processing fee set forth in § 1.17(i); and
(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

The petition is **GRANTED**.

Randy Gulakowski
Supervisory Patent Examiner
Art Unit 1712
Technology Center 1700
Chemical Materials & Engineering

RADER FISHMAN & GRAUER PLLC
Lion Building
1233 20th Street N.W., Suite 501
Washington, DC 20036

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

APR 21 2005

In re Application of	:	
Elyse Clark	:	
Serial No. 11/010,335	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO MAKE SPECIAL
For: GIFT BAG WITH NAPPED	:	
FILAMENTARY SURFACE	:	

Applicant's petition, filed February 10, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

E R Kazenske

E. R. Kazenske, Director
Technology Center 3700

Tracy-Gene G. Durkin
Sterne, Kessler, Goldstein & Fox
1100 New York Avenue, NW
Washington, DC 20005-3934

OIPE IAP97
JUL 20 2007
PATENT & TRADEMARK OFFICE

PATENT
P57280

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

MIN-CHUL SUH *et al.*

Serial No.:	11/010,341	Examiner:	LEE, EUGENE
Filed:	14 December 2004	Art Unit:	2815

For: ORGANIC THIN FILM TRANSISTOR INCLUDING ORGANIC ACCEPTOR FILM

REQUEST FOR RECONSIDERATION/ PETITION TO THE COMMISSIONER

Paper No. 10

Mail Stop Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants respectfully request reconsideration of the Examiner's decision not to enter the Amendment After Final filed on 21 June 2007. If favorable reconsideration is not granted, then it is required that this paper be treated as a Petition to the Commissioner.

Folio: P57280
Date: 7/20/07
I.D.: REB/JGS/kf/nm

STATEMENT OF FACTS

1. A final Office action (Paper No. 20070405) was issued on 20 April 2007.

2. In paragraph 2 of the final Office action, the Examiner rejected claims 1 thru 13 under 35 U.S.C. §112 (second paragraph), stating the following:

> "It is unclear what the limitation 'the side' is relative to (i.e. side of what?) so that a side may be determined. The Examiner interprets the limitation to mean that the electrodes are formed on one side (i.e. bottom side) of the organic acceptor film, and the organic semiconductor film is formed on the opposite side (i.e. top side) of the organic acceptor film; however, appropriate clarification and/or correction are required."

3. On 21 June 2007, Applicants filed an Amendment After Final in which the last paragraph of claim 1 was amended as follows:

> "an organic acceptor film interposed between the source and drain electrodes, <u>which are disposed</u> on one side <u>of the organic acceptor film</u>, and the organic semiconductor film, <u>which is disposed</u> on another side <u>of the organic acceptor film</u>."

4. On 6 June 2007, an Advisory Action (Paper No. 20070703) was issued in which the Examiner refused entry of the Amendment After Final (*see* paragraph 7 of the Advisory Action) on the grounds that "the new limitations in claim 1 raise new issues that would require further consideration and/or search" (quoting from the continuation of paragraph 3 of the Advisory Action).

ARGUMENT

It is respectfully submitted that the Amendment after Final should have been entered because the amendment of claim 1 did not raise new issues requiring further consideration and/or search.

Specifically, as admitted in paragraph 1 of the final Office action, the Examiner interpreted claim 1 to recite that "the electrodes are formed on one side (i.e. bottom side) of the organic acceptor film, and the organic semiconductor film is formed on the opposite side (i.e. top side) of the organic acceptor film" (quoting from paragraph 2, lines 5-7 of the final Office action).

This interpretation of claim 1 by the Examiner was correct as evidenced by the fact that, in the Amendment after Final subsequently filed, claim 1 was amended to recite that the electrodes "are disposed on one side of the organic acceptor film, and the organic semiconductor film...is disposed on another side of the organic acceptor film" (quoting from claim 1, lines 8-9 of amended claim 1).

The Examiner's statement in the final Office action (as quoted above) indicates that, in preparation for issuance of the final Office action, the Examiner considered claim 1 on the basis of the stated interpretation of claim 1, and that the Examiner conducted a search on that basis.

Therefore, since claim 1 was subsequently amended (in the Amendment after Final) in a manner entirely consistent with the Examiner's stated interpretation of claim1, it cannot be said that the amendment of claim 1 raises "new issues" requiring "further consideration and/or search" as alleged in the Amendment after Final of 7 July 2007.

For the above reasons, it is respectfully submitted that the Amendment after Final should have been entered because the amendment of claim 1 did not raise new issues requiring further consideration and/or search.

ACTION REQUESTED

For the above reasons, the following action is requested:

(1) entry of the Amendment after Final filed on 21 June 2007; and

(2) other relief as deemed equitable and proper.

In favorable reconsideration is not granted by the Examiner, it is requested that this paper be treated as a Petition to the Commissioner.

If there are any questions, the undersigned Attorney should be contacted at the below-listed local telephone number.

Respectfully submitted,

Robert E. Bushnell
Attorney for Applicants
Reg. No.: 27,774

1522 "K" Street, N.W., Suite 300
Washington, D.C. 20005
Telephone: 202-408-9040
Facsimile: 202-289-7100

Folio: P57280
Date: 7/20/07
I.D.: REB/kf/nm

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: 9-24-07

In re application of	:	
Nishimoto et al.	:	DECISION ON
Serial No. 11/010,373	:	PETITION
Filed: December 14, 2004	:	
For: Method And Apparatus For An improved Baffle Plate In A Plasma Processing System	:	

This is a decision on the PETITION UNDER 37 CFR 1.181 for acknowledgment of an IDS files on July 14, 2005.

DECISION

A supplemental notice of allowance acknowledging the IDS was sent out.

Accordingly, the instant petition is **DISMISSED.**

Jacqueline M. Stone/wk

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Steven P. Weihrouch
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Jeong-sang Kim	: DECISION ON REQUEST FOR
Patent Number	: 7640368	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,380	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/14/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **376** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

Applicant	: Lieven Leopold Albertine Trappeniers	: DECISION ON REQUEST FOR RECALCULATION of PATENT TERM ADJUSTMENT IN VIEW OF WYETH AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION
Patent Number	: 7600137	
Issue Date	: 10/06/2009	
Appliction No	: 11/010,437	
Filed	: 12/14/2004	

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1088** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JJGJR.: 09-04

Paper No: __

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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SEP 0 9 2005
OFFICE OF PETITIONS

In re Application of	:	
Jourdier, et al.	:	
Application No. 11/010,439	:	ON PETITION
Filed: 14 December, 2004	:	
Attorney Docket No. Q85255	:	

This is a decision on the petition filed on 8 August, 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 14 December, 2004, without, *inter alia*, a fully

executed oath/declaration;

- on 7 February, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- on 8 August, 2005, Petitioner filed the instant petition[1] and fee (and request and fee for extension of time) with, *inter alia*, a statement by Brian K. Shelton (Reg. No. 50,245), along with an oath/declaration containing the signature of named co-inventor Wane-Nguila (Ms. Wane-Nguila) (for herself and on behalf of) but without the signature of named non-signing co-inventors Pierryle Jourdier (Ms. Jourdier) and Ludovic Fleury (Mr. Fleury), and an averment that no contact could be made with the non-signing inventors, however, there was no evidence provided as to the efforts made in that regard and that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventors.

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;

[1] It is noted that successive pages of the petition reference Application No. 11/018,696.

> (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.[2])

CONCLUSION

The record as it stands does not indicate that a good-faith effort was made to ascertain current and valid addresses for the non-signing inventors; nor does it evidence the transmission (i.e., copies of the transmittal letter) of the entire application (description, claims, abstract and drawings) to the non-signing inventors at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

---

[2] See: MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:[3]

By mail: Commissioner for Patents[4]
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] 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 .)

[4] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

UNITED STATES PATENT AND TRADEMARK OFFICE

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JJGJR.: 03-06

Paper No: __

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OFFICE OF PETITIONS

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

In re Application of	:	
Jourdier, et al.	:	
Application No. 11/010,439	:	ON PETITION
Filed: 14 December, 2004	:	
Attorney Docket No. Q85255	:	

This is a decision on the petition filed on 9 February, 2006, 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 14 December, 2004, without, *inter alia*, a fully executed oath/declaration;

- on 7 February, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- Petitioner's 8 August, 2005, petition was dismissed on 9 September, 2005, because–while Petitioner included, *inter alia*, a statement by Brian K. Shelton (Reg. No. 50,245), along with an oath/declaration containing the signature of named co-inventor Wane-Nguila (Ms. Wane-Nguila) (for herself and on behalf of) but without the signature of named non-signing co-inventors Pierryle Jourdier (Ms. Jourdier) and Ludovic Fleury (Mr. Fleury), and an averment that no contact could be made with the non-signing inventors–there was, *inter alia*, no showing provided as to the efforts made in that regard and that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventors;

- the inference is that the instant petition is submitted to cure these deficiencies, however, it appears that while an effort has been made as to Ms. Jourdier, no such showing is made as to Mr. FLeury, and there is no indication that the entire application was sent to the two non-signing inventors at their respective last known/ascertainable addresses.

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 does not indicate that a good-faith effort was made to ascertain current and valid addresses for both of the non-signing inventors; nor does it evidence the transmission (i.e., copies of the transmittal letter) of the entire application (description, claims, abstract and drawings) to the non-signing inventors at current/valid (or at least last-known/ascertainable) addresses. This latter deficiency may be due to a failure of Petitioner to include with the petition a translation of any transmittal correspondence, which translation Petitioner must certify as accurate over Petitioner's signature and registration number. The evidence of these requirements should be submitted with any renewed petition.

Out of an abundance of caution and because, *inter alia*, a property right is in question, Petitioner is requested to submit a copy of the transmittal letter with a renewed petition.

Therefore, the instant petition hereby is **dismissed**.

---

[1] See: MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:[2]

By mail: Commissioner for Patents[3]
P.O. Box 1450
Alexandria, VA 22313-1450

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

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[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 .)

[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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Paper No: __

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Jourdier, et al.	:	
Application No. 11/010,439	:	
Filed: 14 December, 2004	:	
Attorney Docket No. Q85255	:	

This is a decision on the petition filed on 26 May, 2006, 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 14 December, 2004, without, *inter alia*, a fully executed oath/declaration;

- on 7 February, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;

- Petitioner's 8 August, 2005, petition was dismissed on 9 September, 2005, because–while Petitioner included, *inter alia*, a statement by Brian K. Shelton (Reg. No. 50,245), along with an oath/declaration containing the signature of named co-inventor Wane-Nguila (Ms. Wane-Nguila) (for herself and on behalf of) but without the signature of named non-signing co-inventors Pierryle Jourdier (Ms. Jourdier) and Ludovic Fleury (Mr. Fleury),

and an averment that no contact could be made with the non-signing inventors–there was, *inter alia*, no showing provided as to the efforts made in that regard and that the entire application (description, claims, abstract, drawings) was presented to the non-signing inventors;

- the 9 February, 2006, petition was submitted to cure these deficiencies, however, it appeared that while an effort has been made as to Ms. Jourdier, no such showing is made as to Mr. FLeury, and there is no indication that the entire application was sent to the two non-signing inventors at their respective last known/ascertainable addresses, and so the petition was dismissed on 30 March, 2006;

- the instant petition addresses these deficiencies.

This application and its papers have been reviewed and found in compliance with 37 C.F.R. §1.47(a).

This application hereby is **ACCORDED status under 37 C.F.R. §1.47(a)**.

As provided under 37 C.F.R. §1.47(a), the Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition.

Notice of the filing of this application also will be published in the Official Gazette.

This file is being released to OIPE for processing as necessary to reflect the instant decision before being released for examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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.: 06-06

Paper No: __

PIERREYLE JOURDIER
36 RUE DE MOSCOU
PARIS
75008
FRANCE

COPY MAILED

JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Jourdier, et al. :
Application No. 11/010,439 :
Filed: 14 December, 2004 :
Attorney Docket No. Q85255 :

COMMUNICATION

Dear Pierreyle Jourider:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[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]

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 C.F.R. §1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. §1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

Telephone inquiries concerning this letter may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

Counsel of Record:
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JJGJR.: 11-05

Paper No: __

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JAN 2 0 2006

OFFICE OF PETITIONS

In re Application of	:	
Campion, et al.	:	
Application No. 11/010,440	:	ON PETITION
Filed: 14 December, 2004	:	
Attorney Docket No. Q85238	:	

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 5 October, 2005, and supplemented on 31 October, 2005.

The petition is **DISMISSED as moot**.

BACKGROUND

The record indicates:

- the instant application was filed on 14 December, 2004, without, *inter alia*, a fully executed oath/declaration;
- on 5 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration was required within two months;
- on 5 October, 2005, Petitioner Brian Shelton (Reg. No. 50.245) filed, *inter alia*, the original

petition, along with an oath/declaration containing the signatures of named co-inventors Campion and Decaux, but without the signature of named co-inventor Virginie Herchuelz (Ms. Herchuelz), a narration regarding events, and an averment that the oath or declaration was presented to Ms. Herchuelz–however, she had not signed the declaration;

- the instant petition was supplemented on 31 October, 2005, with an averment that Ms. Herchuelz had joined in the oath/declaration along with a copy of the oath/declaration apparently averred to contain the signature of the previously non-signing inventor Ms. Herchuelz;

- thus, it now appears that the oath/declaration has been signed by all inventors.

In view of the joinder of the inventors, further consideration under Rule 1.47(a) is not necessary and the petition is considered to be moot. This application does not have any Rule 1.47 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 Rule 1.47(a).

CONCLUSION

For the foregoing reasons, the instant petition is **dismissed as moot for joinder**.

This application is being released to OIPE for further processing as necessary before being returned to substantive examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET, SUITE 3400
CHICAGO, IL 60661

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of :
VAN ROOYEN, Pieter Gert Wessel :
Application No. 11/010,461 :
Filed: December 13, 2004 :
Attorney Docket No. **16332US01** :

DECISION ON PETITION
UNDER 37 CFR 1.313(c)(1)

This is a decision on the petition under 37 CFR 1.313(a), filed June 5, 2008, requesting withdrawal of the above-identified application from issue.

The petition is **dismissed** as moot for the reasons state below.

A review of the file record discloses that a Notice of Allowance was mailed on April 23, 2008, with the issue fee being due on or before July 23, 2008. **The issue fee in this case has not been paid.**

The filing of a petition under 37 CFR 1.313(a) is unnecessary, since the mere filing of an RCE and submission will effectively withdraw an application for issue **prior to payment of the issue fee.** In view thereof, the petition to withdraw from issue is dismissed as involving a moot issue. *Note* MPEP §§ 706.07(h)(IX) and 1308.

Inquiries concerning this decision may be directed to the undersigned at (571) 272-7253.

The matter is being referred to Technology Center AU 2618 for appropriate processing of the RCE filed June 5, 2008, and for consideration of the concurrently filed amendment.

Monica A. Graves
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 06/03/2010

Applicant	: Howard An	: DECISION ON REQUEST FOR
Patent Number	: 7648529	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/010,496	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/13/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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PO BOX 506
RICHFIELD OH 44286

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OFFICE OF PETITIONS

In re Application of
PATTERSON, Melanie
Application No. 11/010,518
Filed: December 13, 2004
Attorney Docket No. **1378**

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 02, 2008 and re-submitted January 04, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Gugliotta on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below. There is an outstanding Office action mailed November 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MELANIE PATTERSON**
332 FIRST AVENUE
BELLE VERNON, PA 15012

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OFFICE OF PETITIONS

In re Application of	:	
PATTERSON, Melanie	:	
Application No. 11/010,519	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO WITHDRAW
Attorney Docket No. **1379**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 02, 2008 and re-submitted January 04, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by John Gugliotta on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below. There is an outstanding Office action mailed November 20, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MELANIE PATTERSON**
332 FIRST AVENUE
BELLE VERNON, PA 15012

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/010,534	12/13/2004	Cem Basceri	108298666US1	5210

7590 08/05/2008

PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

EXAMINER
TUROCY, DAVID P

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
08/05/2008	PAPER

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

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Adjustment date: 08/05/2008  KKING1
12/16/2004 DTESSEM1 00000055 11010534
02 FC:1111                    -500.00 OP
04 FC:1202                    -150.00 OP
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Repln. Ref: 08/05/2008 KKING1   0012383100
DA#:500665   Name/Number:11010534
FC: 9204                      $650.00 CR
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FORM PET651G (Rev. 08/07)

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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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SEP 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Robert Allan Menke	:	
Application No. 11/010,551	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 2004-0566.01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 24, 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 August 28, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on November 29, 2006.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2817 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Paul C. Gosnell
12029 E. Washington Street
Indianapolis, IN 46229

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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of	:
Daniel J. Flynn	:
Application No. 11/010,557	: DECISION GRANTING PETITION
Filed: December 10, 2004	: UNDER 37 CFR 1.10(c)
Attorney Docket No. H0007821-1628	:

This is a decision on the petition under 37 CFR 1.10(c), filed April 4, 2005, requesting that the above-identified application be accorded a filing date of December 10, 2004, rather than the presently accorded date of December 13, 2004.

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 December 10, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV534351645US US showing a "date-in" of December 13, 2004, and also a stamped postal date of December 10, 2004. The same Express Mail receipt number was placed on the Certificate of Mailing of the original patent application transmittal letter.

An independent search was made by the undersigned of the USPS Express Mail Track and Confirm records which resulted in a finding that the package in question was in fact accepted on December 10, 2004 at the Saint Paul, MN USPS (see attachment). Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on December 10, 2004. Accordingly, the instant application is entitled to a filing date of December 10, 2004, and has been so accorded.

The petition is **granted**.

Telephone inquiries concerning this matter may be directed to Frances Hicks at 571-272-3218.

This application is being forwarded to the Office of Initial Patent Examination for processing with a filing date of December 10, 2004.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: U.S. Postal Service Track & Confirm email Restoration - EV53 4351 645 US

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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SEP 11 2008

In re Application of	:	
Tang et al.	:	LETTER REGARDING PATENT
Application No. 11/010,578	:	TERM ADJUSTMENT
Filed: December 14, 2004	:	
Atty Docket No. 049411-0286	:	

This letter is in response to the "COMMUNICATION REGARDING PATENT TERM ADJUSTMENT," filed April 30, 2008. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the initial Determination of Patent Term Adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the notice of allowance is **27 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On March 18, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 38 days. On April 30, 2008, applicants submitted the instant comment.

A terminal disclaimer was filed on January 14, 2008.

Applicants assert that the 38 days of patent term adjustment indicated in the notice of allowance differs from applicants' calculation of patent term adjustment.

The application history has been reviewed and it has been determined that the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 38 days is incorrect.

A final Office action was mailed on July 20, 2007. Applicants filed their response on October 31, 2007, in excess of the three-month period from the mailing date of the final Office action. See 37 CFR 1.704(b). Thus, applicants failed to engage in reasonable efforts to conclude prosecution of this application. The period of adjustment should have been reduced by 11 days, the number of days in the period beginning on the day after the date that is three months after the date of mailing of the final Office action, October 21, 2007, ending on the date the reply was filed, October 31, 2007. See 37 CFR 1.704(b). Accordingly, an additional period of reduction of 11 days will be entered.

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is **27 days** (83 days of Office delay - 56 days of applicant delay).

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee as set forth in 37 CFR 1.18(e). The Office thanks applicants for applicants' good faith and candor in bringing this to the attention of the Office.

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 regarding this matter should be directed to Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of updated PAIR screen

Day : Thursday
Date: 9/11/2008

PALM INTRANET

Time: 10:22:47

PTA Calculations for Application: 11/010578

Application Filing Date:	12/14/2004	PTO Delay (PTO):	83
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	45
Post-Issue Petitions:	0	Total PTA (days):	27
PTO Delay Adjustment:	-11		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
79	09/11/2008	ADJUSTMENT OF PTA CALCULATION BY PTO		11	
66	03/18/2008	MAIL NOTICE OF ALLOWANCE			
65	03/15/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
64	03/15/2008	ISSUE REVISION COMPLETED			
63	03/15/2008	DOCUMENT VERIFICATION			
62	03/15/2008	NOTICE OF ALLOWABILITY			
58	03/10/2008	PARALEGAL TD ACCEPTED			
57	01/14/2008	TERMINAL DISCLAIMER FILED		0	55
56	03/07/2008	DATE FORWARDED TO EXAMINER			
55	01/14/2008	RESPONSE AFTER NON-FINAL ACTION			
54	11/28/2007	MAIL NON-FINAL REJECTION			
53	11/26/2007	NON-FINAL REJECTION			
52	10/31/2007	NEW OR ADDITIONAL DRAWING FILED			
51	11/15/2007	DATE FORWARDED TO EXAMINER			
50	10/31/2007	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
49	11/15/2007	DATE FORWARDED TO EXAMINER			
48	10/31/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
47	11/15/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
46	10/31/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
45	07/20/2007	MAIL FINAL REJECTION (PTOL -.326)			
44	07/17/2007	FINAL REJECTION			
43	07/05/2007	DATE FORWARDED TO EXAMINER			
42	06/25/2007	RESPONSE AFTER NON-FINAL ACTION			

41	04/11/2007	MAIL NON-FINAL REJECTION			
40	04/02/2007	NON-FINAL REJECTION			
39	03/15/2007	DATE FORWARDED TO EXAMINER			
38	03/02/2007	RCE- AF PROCESSED			
37	03/15/2007	DATE FORWARDED TO EXAMINER			
36	03/02/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)		28	28
35	03/15/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
34	03/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	03/02/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
32	02/23/2007	MAIL ADVISORY ACTION (PTOL - 303)			
31	02/20/2007	ADVISORY ACTION (PTOL-303)			
30	02/09/2007	DATE FORWARDED TO EXAMINER			
29	02/02/2007	AMENDMENT AFTER FINAL REJECTION			
28	11/02/2006	MAIL FINAL REJECTION (PTOL - 326)			
27	10/30/2006	FINAL REJECTION			
26	08/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	08/25/2006	REFERENCE CAPTURE ON IDS			
24.7	08/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		17	22
24	08/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
23	08/16/2006	DATE FORWARDED TO EXAMINER			
22	08/08/2006	RESPONSE AFTER NON-FINAL ACTION			
21	06/19/2006	CASE DOCKETED TO EXAMINER IN GAU			
20	05/08/2006	MAIL NON-FINAL REJECTION	83		-1
19	05/01/2006	NON-FINAL REJECTION			
18	03/21/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
16	12/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	04/14/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	04/14/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	03/21/2005	REFERENCE CAPTURE ON IDS			
12.7	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

12	03/21/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/21/2005	PRELIMINARY AMENDMENT			
10	04/01/2005	APPLICATION DISPATCHED FROM OIPE			
9	04/01/2005	APPLICATION IS NOW COMPLETE			
8	03/21/2005	PAYMENT OF ADDITIONAL FILING FEE/PREEXAM			
7	03/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
6	03/21/2005	APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS			
5	01/19/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
3	01/07/2005	CLEARED BY OIPE CSR			
2	12/29/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/14/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

11/010598

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100621

DATE : June 23, 2010

TO SPE OF : ART UNIT 3754

SUBJECT : Request for Certificate of Correction on Patent No.: 7,712,637

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:

All other references to closures, septums and plugs in the claims were changed to cork, these two were missed. /CJ/

SPE: /Kevin P. Shaver/ **Art Unit** 3754

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/010,604	12/14/2004	Noriko Kajiki	KAN-110/CON

RADER FISHMAN & GRAUER PLLC
LION BUILDING
1233 20TH STREET N.W., SUITE 501
WASHINGTON DC 20036

DATE MAILED: December 15, 2006

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) filed December 7, 2006, 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.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

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APR 20 2007
OFFICE OF PETITIONS

In re Application of	:	
Butler et al.	:	
Application No. 11/010612	:	
Filing or 371(c) Date: 12/13/2004	:	ON PETITION
Attorney Docket Number:	:	
COS 977 (31223.00043)	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 24, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 25, 2006. A Notice of Abandonment was mailed September 20, 2006.

The instant petition

Applicant files the instant petition and Amendment.

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
Butler et al.	:	
Application No. 11/010612	:	
Filing or 371(c) Date: 12/13/2004	:	
Attorney Docket Number:	:	
COS 977 (31223.00043)	:	

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137(b), filed June 22, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 24, 2006. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 25, 2006. A Notice of Abandonment was mailed September 20, 2006.

The October 13, 2006 petition

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on October 13, 2006, along with an amendment in response to the Office action. The Examiner reviewed the Amendment and concluded that the Amendment failed to place the application in condition for allowance.

The petition was dismissed in a Decision mailed April 20, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The present request for reconsideration

Applicant files the present request for reconsideration and asserts that 1) only page one of the reply to the final Office action, sent via facsimile on February 13, 2006, was received in the Office; 2) that Applicant made a bona fide attempt to respond to the Office action, and 3) Applicant respectfully requests that the petition to revive be granted regardless of the allowability of the amendment.

Applicable Law, Rules and MPEP

A grantable petition pursuant to this paragraph must be accompanied by:
(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As to item (1), Applicant has failed to submit the required reply to the Office action. A reply under 37 CFR 1.113 to a final action must include a request for continued examination (RCE) under 37 CFR 1.114 or cancellation of, or appeal from the rejection of, each claim so rejected. Accordingly, in a nonprovisional application abandoned for failure to reply to a final action, the reply required for consideration of a petition to revive must be:

(A) a Notice of Appeal and appeal fee;
(B) an amendment under 37 CFR 1.116 that cancels all the rejected claims or otherwise prima facie places the application in condition for allowance;
(C) the filing of an RCE (accompanied by a submission that meets the reply requirements of 37 CFR 1.111 and the requisite fee) under 37 CFR 1.114 for utility or plant applications filed on or after June 8, 1995 (see paragraph (d) below); or
(D) the filing of a continuing application under 37 CFR 1.53(b) (or a CPA under 37 CFR 1.53(d) if the application is a design application).

When a notice of appeal is the reply filed pursuant to 37 CFR 1.137(a)(1) or 1.137(b)(1), the time period under 37 CFR 41.37 for filing the appeal brief will be set by the Director of the USPTO in the decision granting the petition.

Regarding the abandonment of the application, Applicant is advised that Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See Lorenz v. Finkl, 333 F.2d 885,

889-90, 142 USPQ 26, 29-30 (CCPA 1964); Krahn v. Commissioner, 15 USPQ2d 1823, 1824 (E.D. Va 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988). 35 U.S.C.§ 133, Time for prosecuting application, states:

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

Id.

It is well settled that the use of "shall" in a statute is the language of command, and where the directions of a statute are mandatory, strict compliance with the statutory terms is essential. Farrel Corp. v. U.S. Int'l Trade Comm'n, 942 F.2d 1147, 20 USPQ2d 1912 (Fed. Cir. 1991).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Inquiries regarding the Amendment should be directed to the Examiner. Telephone inquiries concerning this petition Decision 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	:	
Butler et al.	:	
Application No. 11/010612	:	
Filing or 371(c) Date: 12/13/2004	:	ON PETITION
Attorney Docket Number:	:	
COS 977 (31223.00043)	:	

This is a decision on the Request for Reconsideration of Petition under 37 CFR 1.137(b), filed November 15, 2007, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 24, 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 April 25, 2007. A Notice of Abandonment was mailed September 20, 2006.

The October 13, 2006 petition

Applicant filed a petition to revive the application under 37 CFR 1.137(b) on October 13, 2006, which was dismissed in a Decision mailed April 20, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The June 22, 2007 request for reconsideration

Applicant filed a request for reconsideration on June 22, 2007, which was dismissed in a Decision mailed September 20, 2007, for failing to meet the requirements of a grantable petition under 37 CFR 1.137(b).

The present request for reconsideration 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, and the submission required by 37 CFR 1.114; (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) 272-3232.

This application is being referred to Technology Center AU 1755 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.

Derek L. Woods
Attorney
Office of Petitions