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NOV 13 2006

OFFICE OF PETITIONS

LETTY ANN OWEN
PO BOX 10495
DANVILLE, VA 24543

In re Application of :
Owen : DECISION ON PETITION
Application No. 11/010,623 :
Filed: December 13, 2004 :
Atty. Dkt. No.: LOWEN-MIRLA-01 :

This is a decision on the petition to withdraw the holding of abandonment, filed August 11, 2006, under 37 CFR 1.181.

The petition is hereby **DISMISSED**.

This application became abandoned February 26, 2006 for failure to timely submit a proper reply to the non-final Office action mailed November 25, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 24, 2006.

Petitioner alleges non-receipt of the non-final Office action, but has failed to provide any evidence of non-receipt.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to the correspondence address designated by applicant. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from someone with firsthand knowledge stating that the Office communication was not received at the correspondence address of record and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

Any renewed petition must be accompanied by evidence in support of petitioner's allegation of non-receipt of the non-final Office action.

ALTERNATE VENUE

Petitioner may wish to consider filing a petition stating that the delay in timely submitting a properly reply to the Notice was unintentional or unavoidable pursuant to 37 CFR 1.137(b) and (a) respectively. See enclosed for additional guidance.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures: Form/PTO Privacy Statement

PTO/SB/64 (09-06)
Approved for use through 03/31/2007. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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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OFFICE OF PETITIONS

LETTY ANN OWEN
PO BOX 10495
DANVILLE, VA 24543

In re Application of :
Owen : DECISION ON PETITION
Application No. 11/010,623 :
Filed: December 13, 2004 :
Atty. Dkt. No.: LOWEN-MIRLA-01 :

This is a decision on the renewed petition to withdraw the holding of abandonment, filed April 2, 2007, under 37 CFR 1.181.

The petition is hereby **GRANTED**.

This application was held abandoned February 26, 2006 for failure to timely submit a proper reply to the non-final Office action mailed November 25, 2006. The non-final Office action set a three month shortened statutory period of time for reply. Notice of Abandonment was mailed July 24, 2006.

Petitioner alleges non-receipt of the non-final Office action and has provided supporting evidence of non-receipt.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the Office communication was properly mailed to the correspondence address designated by applicant. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from someone with firsthand knowledge stating that the Office communication was not received at the correspondence address of record and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Office records indicate the Office communication was properly mailed to the correspondence address of record at the time of mailing. Accordingly, there was no irregularity in mailing the Office communication on the part of the United States Patent and Trademark Office.

In view of the evidence submitted, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

The Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 for re-mailing of the non-final Office action. The time period for reply will be reset in the newly mailed Office action.

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
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/010,623	12/13/2004	Letty Ann Owen	LOWEN-MIRLA-01	4445

7590 08/22/2008
LETTY OWEN TALLEY
PO BOX 10495
DANVILLE, VA 24543

EXAMINER
FETSUGA, ROBERT M

ART UNIT	PAPER NUMBER
3751	

MAIL DATE	DELIVERY MODE
08/22/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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LETTY OWEN TALLEY
PO BOX 10495
DANVILLE VA 24543

In re Application of: OWEN, LETTY ANN Serial No. 11/010,623 Filed: Dec. 13, 2004 Docket: LOWEN-MIRLA-01 Title: BATHTUB INSERT "TAKE-FIVE"	DECISION ON PETITION UNDER 37 CFR § 1.181 To Withdraw Holding of Abandonment

This is a decision on the petition filed on Aug. 8, 2008. The petitioner requests withdrawal of the holding of abandonment pursuant to 37 CFR 1.181(a).

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the non-final Office action mailed on Oct. 25, 2007, which set a three-month shortened period for reply. Notice of abandonment was mailed on May 28, 2008.

Petitioner asserts that a timely response to the non-final Office action was mailed to the Office on Dec. 18, 2007. The petitioner has supplied a copy of the amendment to the specification, a copy of delivery receipt bearing a receipt date of Dec. 19, 2007and a copy of self-addressed post card. The petitioner also provided a signed copy of a certificate of mailing pursuant to 37 CFR § 1.8 dated Dec. 18, 2007.

As petitioner has provided convincing evidence that a timely reply to the non-final office action mailed on Dec. 18, 2008 was filed with the Office within the three months shortened period for reply, there is no abandonment in fact. Any inconvenience or delay caused to applicant is regretted.

In view of the above, the Notice of Abandonment mailed May 28, 2008 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3751 for preparation of an Office action to the applicant's response filed with the petition.

PETITION GRANTED

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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JOHN H. LYNN
SUITE C 103
2915 REDHILL AVE.
COSTA MESA, CA 92626

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In re Application of	:	
Montgomery, Robert E.	:	
Application No. 11/010,635	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. PSI.12	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 2, 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 Issue Fee Transmittal and requisite fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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ELEANOR L. TAYLOR
6612 MANOR HILL RD.
SAN ANTONIO TX 78257

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OFFICE OF PETITIONS

In re Application of	:	
Taylor et al.	:	
Application No. 11/010,655	:	ON PETITION
Filed: December 13, 2004	:	
Title: ANKLE BOLSTER	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed March 23, 2006 and supplemented on January 24, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Hoffman & Baron)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 04/23/2010

Applicant	: Min Wu	: DECISION ON REQUEST FOR
Patent Number	: 7608455	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,679	: 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 **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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HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of Gremmert :
Application No. 11/010,713 : Decision on Petition
Filing Date: December 13, 2004 :
Attorney Docket No. H00005711 :

This is a decision on the petition under 37 CFR 1.137(a), filed February 8, 2007, to revive the above-identified application. The petition is also being treated under 37 CFR 1.181 (no fee) as a petition to withdraw the holding of abandonment.[1]

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

The petition under 37 CFR 1.137(a) is **dismissed as moot**.

This application was held abandoned for failure to timely respond to the non-final Office action of May 1, 2006, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before August 1, 2006.

A Notice of Abandonment was mailed on December 14, 2006. The Notice states the application is abandoned because the Office failed to receive a reply to the May 1, 2006 Office action.

A review of the electronic image file wrapper indicates a reply and a request for a one-month extension of time were electronically filed and received August 11, 2006. Office records indicate the $120 fee for a one-month extension of time was charged to petitioner's credit card on August 14, 2006, in response to a paper filed August 11, 2006.

Since the file contains a timely reply to the May 1, 2006 Office action, the application is clearly not abandoned. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

---

[1] MPEP 711.03(c)(I) states,

> Where an applicant contends that the application is not in fact abandoned[,] ... a petition under 37 CFR 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action, and such petition does not require a fee. Where there is no dispute as to whether an application is abandoned[,] ... a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

Since the petition has been granted under 37 CFR 1.181, petitioner's request to have the petition considered under 37 CFR 1.137(a) is dismissed as moot. No petition fee is required for a petition to withdraw holding of abandonment under 37 CFR 1.181. Therefore, the petition fee of $500 will be credited back to petitioner's deposit account.

Technology Center Art Unit 3661 will be informed of the instant decision and the examiner will consider the merits of the papers filed August 11, 2006, in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/010,713	12/13/2004	Scott R. Gremmert	H0005711 (HOOO-1-5711)	6461

128 7590 11/18/2009
HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER
ARTHUR JEANGLAUDE, GERTRUDE

ART UNIT	PAPER NUMBER
3661	

MAIL DATE	DELIVERY MODE
11/18/2009	PAPER

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091112

DATE : November 12, 2009

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction on Patent No.: 7,403,843

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 new matter introduced. GAJ

/Thomas G. Black/
Supervisory Patent Examiner, Art Unit 3661

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NANCY SEAR IATAROLA
371 SPRING VIEW COURT
PORTER, IN 46304

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of
James Mark Underwood et al.
Application No. 11/010,717
Filed: December 14, 2004
Attorney Docket No. 41299

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 31, 2007.

The request is **APPROVED**.

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

The request was signed by Nancy Sear Iatarola sole attorney of record. Nancy Sear Iatarola has been withdrawn.

All future correspondence will be mailed to the first signing inventor. It is noted that the Revocation of Power of Attorney filed with this petition on October 31, 2007 is not proper. The power of attorney was not signed by both applicants.

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

A non-final rejection was mailed on August 21, 2007. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: James Mark Underwood
527 W. Porter Avenue
Chesterton, IN 46304

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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MAR 15 2007

OFFICE OF PETITIONS

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

In re Application of	:	
Kudo et al.	:	DECISION ON
Application No.: 11/010,726	:	
Filing Date: December 13, 2004	:	PETITION UNDER
Docket No.: KON-1933 CIP	:	
For: Radiation Image Conversion Panel	:	37 CFR 1.137(b)

This is a decision on Petition Under 37 CFR 1.137(b), filed on November 29, 2006. It is noted that, on November 30, 2006, applicants withdrew the petition under 37 CFR 1.181 filed on November 28, 2006.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the Notice of Allowance mailed July 24, 2006, which set a statutory period for reply of three (3) months. Although applicants filed a Form PTOL-85B on 04 October 2006, that form was directed to application no. 11/010,276 rather than the instant application. Accordingly, the above-identified application became abandoned at midnight on October 24, 2006. A Notice of Abandonment was mailed on November 17, 2006.

Petitioner has met the requirements for revival under 37 CFR 1.137(b). Petitioner submitted the reply in the form of the Issue Fee, Publication Fee (if required), and Form PTOL-85B (identifying the correct application number); paid the petition fee; and made the required statement of unintentional delay. No Terminal Disclaimer is required since this application was filed after June 8, 1995. Accordingly, response to the Notice of Allowance (Form PTOL-85B) is being accepted as having been unintentionally delayed.

It is noted that petitioner paid the Issue Fee and Publication Fees on October 16, 2006, and again on November 29, 2006. Therefore, the $1700.00 overpayment is being credited to counsel's Deposit Account No. 02-2275, per the authorization filed on December 13, 2004.

This application is being referred to the Publishing Division.

George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
on behalf of
Office of Petitions

Telephone: 571-272-3283
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Anderson Gorecki & Manaras LLP
33 NAGOG PARK
ACTON, MA 01720

Mail Date: 05/13/2010

Applicant	: Martin Soukup	: DECISION ON REQUEST FOR
Patent Number	: 7646725	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/010,741	: 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 **1010** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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J. GRANT HOUSTON
HOUSTON ELISEEVA LLP
4 MILITIA DRIVE, SUITE 4
LEXINGTON, MA 02421

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MAR 12 2007

OFFICE OF PETITIONS

In re Patent No. 7,095,034	:	
Issue Date: August 22, 2006	:	
Application No. 11/010,749	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. MU03021	:	

This is a decision on the petition filed October 24, 2006, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct 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

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

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In re Patent No. **7,384,898** :
Issue Date: June 10, 2008 :
Application No. 11/010,762 : NOTICE UNDER 37 CFR 1.28(C)
Filed: December 13, 2004 :
Attorney Docket No. **3875-39 (184749)** :

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

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

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. Peter A. Chiabotti 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. Chiabotti desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

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

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

Inquiries related to this communication should be directed to Monica A. Graves at (571) 272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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OFFICE OF PETITIONS

SCHERING-PLOUGH CORPORATION
PATENT DEPARTMENT (K-6-1, 1990)
2000 GALLOPING HILL ROAD
KENILWORTH NJ 07033-0530

In re Application of	:	
Zhu et al.	:	ON APPLICATION FOR
Application No. 11/010,772	:	PATENT TERM ADJUSTMENT
Filed: December 13, 2004	:	
Attorney Docket No. CN06136US01	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed June 9, 2009. Applicants request that the determination of patent term adjustment be corrected from five hundred sixty-three (563) days to one thousand two hundred five (1205) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

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).

---

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

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

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

Kery A Fries

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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Merck
Patent Department (K-6-1,1990)
2000 Galloping Hill Road
Kenilworth NJ 07033-0530

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JUN 18 2010

OFFICE OF PETITIONS

In re Patent No. 7,592,348	:
Zhu et al.	: DECISION UPON REMAND AND
Issue Date: September 22, 2009	: RECONSIDERATION OF
Application No. 11/010,772	: PATENT TERM ADJUSTMENT
Filed: December 13, 2004	: AND NOTICE OF INTENT
Attorney Docket No. CN06136US01	: TO ISSUE CERTIFICATE OF
Title: Heterocyclic Aspartyl	: CORRECTION
Protease Inhibitors	:

This is a decision following remand from the District Court for the District of Columbia regarding the patent term adjustment indicated on the above-identified patent. The Court remanded this matter to the U.S. Patent and Trademark Office for recalculation of the patent term adjustment in accordance with the decision in Wyeth & Elan Pharma Int'l Ltd. v. Kappos, 591 F.3d 1364 (Fed. Cir. 2010).

The patent term adjustment indicated on the above-identified patent has been recalculated as directed by the Court. The term of the above-identified patent is extended or adjusted by one thousand one hundred and forty-one (1141) days.

The application is being forwarded to the Certificates Branch for issuance of a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand one hundred and forty-one (1141) days.

Telephone inquiries specific to this matter should be directed to Senior Legal Advisor, Kery A. Fries at (571) 272-7757.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor Attorney

Office of Patent Legal Administration
Office of Associate Commissioner
For Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,592,348 B2

DATED : **September 22, 2009** **DRAFT**

INVENTOR(S) : Zhu 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 551 days

Delete the phrase "by 551days" and insert – by 1141 days--

Day : Thursday
Date: 6/17/2010

PALM INTRANET

Time: 12:57:49

PTA Calculations for Application: 11/010772			
Application Filing Date:	12/13/2004	PTO Delay (PTO):	649
Issue Date of Patent:	09/22/2009	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	98
Post-Issue Petitions:	0	Total PTA (days):	1141
PTO Delay Adjustment:	590		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	06/17/2010	ADJUSTMENT OF PTA CALCULATION BY PTO	590		
80.5	09/02/2009	PTA 36 MONTHS	53		
80	09/22/2009	PATENT ISSUE DATE USED IN PTA CALCULATION			
79	07/24/2009	EXPORT TO FINAL DATA CAPTURE			
78	07/23/2009	DISPATCH TO FDC			
77	07/20/2009	MAIL-PETITION DECISION - DISMISSED			
76	07/20/2009	PETITION DECISION - DISMISSED			
75	07/02/2009	FINISHED INITIAL DATA CAPTURE			
74	06/16/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
73	06/17/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
72	06/16/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
71	06/09/2009	PETITION ENTERED			
70	06/11/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
69	06/09/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		3	70
68	06/09/2009	ISSUE FEE PAYMENT VERIFIED			
67	06/09/2009	ISSUE FEE PAYMENT RECEIVED			
66	06/01/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
65	04/29/2009	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
64	04/08/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)		62	70
63	03/16/2009	EXPORT TO INITIAL DATA CAPTURE			
62	03/10/2009	MAIL NOTICE OF ALLOWANCE			

61	03/09/2009	ISSUE REVISION COMPLETED			
60	03/09/2009	DOCUMENT VERIFICATION			
59	03/09/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	03/02/2009	NOTICE OF ALLOWABILITY			
57	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
56	12/22/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
55	02/19/2009	DATE FORWARDED TO EXAMINER			
54	12/22/2008	RESPONSE AFTER NON-FINAL ACTION		3	46
53	12/22/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
52	12/22/2008	REFERENCE CAPTURE ON IDS			
51	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
50	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
49	12/22/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
48	04/18/2008	REFERENCE CAPTURE ON IDS			
47	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
46	09/19/2008	MAIL NON-FINAL REJECTION			
45	09/15/2008	NON-FINAL REJECTION			
44	04/18/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
43	06/27/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	06/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		0	40
41	07/29/2008	DATE FORWARDED TO EXAMINER			
40	06/27/2008	RESPONSE AFTER NON-FINAL ACTION		30	34
39	06/27/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
37	06/27/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
35	04/18/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	02/28/2008	MAIL NON-FINAL REJECTION			
33	02/27/2008	NON-FINAL REJECTION			

22	11/15/2007	DATE FORWARDED TO EXAMINER			
21	11/01/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
20	10/02/2007	MAIL RESTRICTION REQUIREMENT	596		-1
19	09/28/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
18	06/30/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
17	07/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	03/29/2007	PG-PUB ISSUE NOTIFICATION			
15	06/30/2006	REFERENCE CAPTURE ON IDS			
14.7	06/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	06/30/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	12/01/2005	CASE DOCKETED TO EXAMINER IN GAU			
12	05/17/2005	OATH OR DECLARATION FILED (INCLUDING SUPPLEMENTAL)			
11	09/28/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	04/21/2005	MISCELLANEOUS INCOMING LETTER			
9	05/26/2005	APPLICATION DISPATCHED FROM OIPE			
8	05/26/2005	APPLICATION IS NOW COMPLETE			
7	04/21/2005	ADDITIONAL APPLICATION FILING FEES			
6	04/21/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	04/07/2005	CLEARED BY L&R (LARS)			
3	01/08/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	01/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/13/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
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SUITE 2800
SEATTLE WA 98101-2347

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MAY 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Dnestrianschii et al.	:	
Application No. 11/010,782	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. THAS124134	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed February 11, 2009, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center AU 3754 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: G. Mark Anderson	: DECISION ON REQUEST FOR
Patent Number	: 7605235	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,797	: 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 **854** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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	:	
John F. Connors, Jr.	:	
Application No. 11/010,804	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. TTC-06-1456R	:	

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

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed April 13, 2007. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time were obtained. Accordingly, no reply having been received, the application became abandoned on July 13, 2007. A Notice of Abandonment was mailed on October 25, 2007.

With the instant petition, applicant 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 1797 for consideration of the Amendment filed February 29, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/010,817	12/13/2004	John A. Murray	P400477	6011

46155 7590 04/18/2008
ALEXANDER R SCHLEE
SCHLEE IP INTERNATIONAL P.C.
3770 HIGHLAND AVENUE, SUITE 203
MANHATTAN BEACH, CA 90266

EXAMINER
TOOMER, CEPHIA D

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/18/2008	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 12/31/2006. 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	11/010,817
Filing Date	13 December 2004
First Named Inventor	John A. Murray
Art Unit	1764
Examiner Name	
Attorney Docket Number	P400477

RECEIVED
CENTRAL FAX CENTER
MAY 23 2006

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

4-18-08
Approved
Jacqueline M. Stone
Jacqueline M. Stone, Director
Technology Center 1700/2900

Please withdraw me as attorney or agent for the above identified patent application, and

- [ ] all the attorneys/agents of record.
- [ ] the attorneys/agents (with registration numbers) listed on the attached paper(s), or
- [x] the attorneys/agents associated with Customer Number 46155

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: Applicant requests transfer of all its applications to new counsel. Attached please find copies of applicant's letter, letter to new counsel, status sheet and UPS confirmation of receipt of files to new counsel.

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

[x] Firm or Individual Name	Kent R. Erickson, Erickson & Kleypas L.L.C.				
Address	800 W. 47th Street, Suite 401				
City	Kansas City	State	MO	Zip	64112
Country	USA				
Telephone	(816) 753 - 6777	Email	kre@kcpatentlaw.com		
Signature					
Name	Alexander R. Schlee	Registration No.	55,912		
Date	23 May 2006	Telephone No.	(310) 545-9851		

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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SEP 12 2005

BRIAN ROFFE, ESQ
11 SUNRISE PLAZA
SUITE 303
VALLEY STREAM, NY 11580-6170

In re application of David S. Breed et al. Application No. 11/010,819 Filed: December 13, 2004 For: WEIGHT MEASURING SYSTEMS AND METHODS FOR VEHICLES	: : : :	**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)**

This is a decision on the petition submitted on July 18, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a passport indicating Mr. Breed is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 07/21/05

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ONE MELLON CENTER
50TH FLOOR
500 GRANAT STREET
PITTSBURGH PA 15219

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of	:	
Andrew R. Blight	:	DECISION ON PETITION
Application No. 11/010,828	:	UNDER 37 CFR 1.47(a)
Filed: December 13, 2004	:	AND GRANTING REQUEST
Attorney Docket No. 127304.02601	:	UNDER 37 CFR 1.48(b)

This is in response to the petition under 37 CFR 1.47(a), filed December 8, 2008, and the request to correct inventorship pursuant to 37 CFR 1.48(b), filed December 9, 2008.

The request under 37 CFR 1.47(a) is **DISMISSED** as moot.

The petition under 37 CFR 1.48(b) is **GRANTED**.

Petitioner has shown that inventor Cunningham could not be located. However, the application will not be accorded Rule 47 status, as pursuant to the petition under 37 CFR 1.48(b), petitioner has subsequently stated that due to claim amendments, Cunningham is no longer being claimed as an inventor in the application.

However, if petitioner desires to have inventor Shane Cook listed on the application, petitioner must file a petition under 37 CFR 1.48(a).

The matter is being forwarded to Group Art Unit 1611 for consideration of the Amendment filed December 8, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON MA 02210-2206

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OFFICE OF PETITIONS

In re Application of	:	
George G. Mueller et al	:	
Application No. 11/010,840	:	DECISION ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. C1104.70133US01	:	

This is a decision on the petition under 37 CFR 1.182, filed February 1, 2007, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A Replacement Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

As authorized, the $400 fee for the petition under 37 CFR 1.182 has been assessed to petitioner's deposit account.

This application is being referred to Patent Publication.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Replacement 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
11/010,840	12/13/2004	2875	4680	C1104.70133US01	58	2

CONFIRMATION NO. 1232

REPLACEMENT FILING RECEIPT

23628
WOLF GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

OC000000027813638

Date Mailed: 01/22/2008

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

Applicant(s)

George G. Mueller, Boston, MA;
Frederick M. Morgan, Quincy, MA;
Ihor A. Lys, Milton, MA;
Kevin J. Dowling, Westford, MA;
Edward Nortrup, Stoneham, MA;

Assignment For Published Patent Application

Color Kinetics, Incorporated, Boston, MA

Power of Attorney: The patent practitioners associated with Customer Number 23628

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/528,847 12/11/2003
and claims benefit of 60/558,400 03/31/2004
and claims benefit of 60/588,090 07/15/2004

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 11/010,840**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

THERMAL MANAGEMENT METHODS AND APPARATUS FOR LIGHTING DEVICES

Preliminary Class

362

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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22ND FLOOR
CHICAGO, IL 60606

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JUN 16 2008

In re Application of	:	
Ya-Tung I	:	
Application No. 11/010,871	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO WITHDRAW
Attorney Docket No. 2461/93449	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 19, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Welsh & Katz, LTD has been revoked by the assignee of the patent application on November 21, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: TAIWAN ADVANCE PATENT & TRADEMARK OFFICE
4F, NO. 410, SEC5, CHUNGHSIAO E. RD.
TAIPEI CITY TAIWAN
R.O.C.

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OFFICE OF PETITIONS

SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Application	:
Erol Bozak et al.	:
Application No. 11/010,872	: DECISION ON APPLICATION
Filed: December 13, 2004	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. 09700.0089-00000	:

This is a decision on the "NOTICE OF POSSIBLE PTO ERROR IN THE DETERMINATION OF PATENT TERM ADJUSTMENT AND REQUEST FOR REVIEW OF CALCULATION" filed July 24, 2009, which is treated as a petition under 37 CFR 1.705(b). Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from seven hundred eighteen (718) days to seven hundred sixty-three (763) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred sixty-three **(763)** days. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On July 9, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is seven hundred sixty-three days. On July 24, 2009, applicants timely[1] submitted an application for patent term adjustment (with an authorization to charge the required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice of Allowance is seven hundred eighteen (718) days. Applicants dispute the reduction of forty-five (45) days attributed to applicant for the filing of an Information Disclosures Statement on July 7, 2008, after the filing of a response on May 23, 2008 to the non-Final Office Action mailed March 17, 2008.

The Office initially determined a patent term adjustment of seven hundred eighteen (718) days based on an adjustment for PTO delay of seven hundred sixty-three (763) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 C.F.R. § 1.703(a)(1) reduced by applicants' delay of forty-five (45) days pursuant to 35 U.S.C. 154(b)(2)(C)(ii) and 37 C.F.R. § 1.704(b). The adjustment of 763 days has been reviewed and found to be

[1] PALM records indicate that the Issue Fee was received in the Office on August 11, 2009

correct. The reduction of forty-five (45) days of applicant delay is at issue.

The reduction of 45 days has been found to be incorrect. A review of the application file reveals that, as stated by applicants, no Information Disclosure Statement is of record in the application with a filing date of July 7, 2008. Thus, applicants did not fail to engage in reasonable efforts to conclude prosecution of the application and the Office should not have assessed applicants a delay of forty-five (45) days.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is seven hundred sixty-three (763) days.

The petition fee in the amount of $200.00, as set forth in 37 CFR 1.18(e), has been charged to deposit account no.06-0916, per the authorization in the petition. No additional fees are required.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seven hundred sixty-three **(763)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

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

/Kery A. Fries/

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

Enclosure: Copy of Revised PAIR Screen

Day : Thursday
Date: 12/17/2009

PALM INTRANET

Time: 12:22:05

PTA Calculations for Application: 11/010872			
Application Filing Date:	12/13/2004	PTO Delay (PTO):	763
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	45
Post-Issue Petitions:	0	Total PTA (days):	763
PTO Delay Adjustment:	45		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	12/17/2009	ADJUSTMENT OF PTA CALCULATION BY PTO	45		
52	07/09/2009	MAIL NOTICE OF ALLOWANCE			
51	07/07/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	07/07/2009	ISSUE REVISION COMPLETED			
49	07/07/2009	DOCUMENT VERIFICATION			
48	07/02/2009	EXAMINER'S AMENDMENT COMMUNICATION			
47	07/02/2009	NOTICE OF ALLOWABILITY			
46	04/25/2009	DATE FORWARDED TO EXAMINER			
45	04/15/2009	RESPONSE AFTER NON-FINAL ACTION			
44	04/09/2009	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
43	04/07/2009	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
42	02/03/2009	MAIL NON-FINAL REJECTION			
41	01/31/2009	NON-FINAL REJECTION			
40	11/19/2008	DATE FORWARDED TO EXAMINER			
39	11/13/2008	RCE- AF PROCESSED			
38	11/19/2008	DATE FORWARDED TO EXAMINER			
37	11/13/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
36	11/19/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
35	11/13/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
34	11/10/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
33	11/06/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			

32	10/20/2008	CORRESPONDENCE ADDRESS CHANGE			
31	07/07/2008	REFERENCE CAPTURE ON IDS			
30	07/07/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		45	25
29	08/13/2008	MAIL FINAL REJECTION (PTOL - 326)			
28	08/13/2008	FINAL REJECTION			
27	07/03/2008	CASE DOCKETED TO EXAMINER IN GAU			
26	06/24/2008	DATE FORWARDED TO EXAMINER			
25	05/23/2008	RESPONSE AFTER NON-FINAL ACTION			
24	03/17/2008	MAIL NON-FINAL REJECTION	763		-1
23	03/13/2008	NON-FINAL REJECTION			
18	01/06/2008	CASE DOCKETED TO EXAMINER IN GAU			
17	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
16	10/15/2007	FLAGGED FOR 5/25			
15	05/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	02/05/2007	TRANSFER INQUIRY TO GAU			
13	02/05/2007	TRANSFER INQUIRY TO GAU			
12	11/09/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/06/2005	CORRESPONDENCE ADDRESS CHANGE			
10	07/07/2005	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
9	03/07/2005	TRANSFER INQUIRY TO GAU			
8	02/02/2005	APPLICATION RETURN FROM OIPE			
7	02/02/2005	APPLICATION RETURN TO OIPE			
6	02/02/2005	APPLICATION DISPATCHED FROM OIPE			
5	02/03/2005	APPLICATION IS NOW COMPLETE			
4	01/21/2005	CLEARED BY OIPE CSR			
3	01/21/2005	CASE CLASSIFIED BY OIPE			
2	01/03/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/13/2004	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/28/2010

Applicant	: Erol Bozak	: DECISION ON REQUEST FOR
Patent Number	: 7653902	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/010,872	: 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 **1049** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/28/2010

Applicant	: Erol Bozak	: DECISION ON REQUEST FOR
Patent Number	: 7627655	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/010,882	: 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 **1387** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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1500 WELLS FARGO PLAZA
7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

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MAY 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
David H. Nowak et al	:	
Application No. 11/010,896	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 27,503-13	:	

This is in response to the petition under 37 CFR 1.47(a), filed December 13, 2004.

The petition is dismissed

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

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

As to item (1), petitioner has failed to establish that inventor Stanley Schroeder has refused to join in the filing of the above-identified application. The declaration of Michael A. Essien indicates that a declaration form was sent to Stanley Schroeder's last known address, but was returned due to "No sign of life; Gone for the Winter." Declarant further states that in February 2003, several telephone calls were made but went unanswered.

Rule 47 applicant must demonstrate with documented evidence that an inventor refuses to join in the application after have been presented with the application papers (specification, claims, and drawings). There is no indication whether Mr. Schroeder was presented with a copy of the complete application papers. If Mr. Schroeder was not presented with a copy of the application papers, then he could not attest that he has "reviewed and understands the application papers" and

therefore could not sign the declaration which he was given. Did Mr. Schroeder receive the application papers? See MPEP 409.03(d). Unless petitioner can show that a copy of the application papers was presented to Mr. Schroeder, then petitioner will have to mail a copy of the complete application papers to Mr. Schroeder at his last known address, return receipts requested. A cover letter of instructions should accompany the mailing of the application papers setting a deadline or a statement that no response will constitute a refusal. This sort of ultimatum lends support to a finding of refusal by conduct. The proof of the pertinent events should be made by a statement of someone with firsthand knowledge of the events and should include documentary evidence, such as certified mail return receipt, cover letter of instructions, telegrams, etc., to support a showing that the nonsigning inventor has refused to sign the declaration after having been presented with the application papers. See MPEP 409.03(d).

Where there is an express or oral refusal, that fact, along with the time and place of the refusal, must be stated in an affidavit or declaration by the party to whom the refusal was made. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration.

When it is concluded by the rule 47 applicant that an omitted inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in an affidavit or declaration. If there is documentary evidence to support facts alleged in the affidavit or declaration, such evidence must be submitted.

Whenever an omitted inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the affidavit or declaration.

Further, applicant's attention is directed to MPEP 409.03(d) which states "[t]he fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is <u>not</u> an acceptable reason for filing under 37 CFR 1.47." Therefore, the petition is thus dismissed.

As to item (2), the Declaration submitted on December 13, 2004 does not comply with 37 CFR 1.63 and 1.64. The declaration fails to set forth the nonsigning inventor's residence and post office address. Accordingly, an ADS or declaration in compliance with 37 CFR 1.63 and 1.64 signed by the signing inventor on behalf of himself and the non-signing inventor is required. See MPEP 409.03(a); 602; 605.2; and 605.03.

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

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

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

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

After this decision is mailed, petitioner's deposit account No. 50-0549, will be charged the required $200 petition fee.

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

Frances Hicks

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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7900 XERXES AVENUE SOUTH
BLOOMINGTON, MN 55431

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OCT 1 3 2005

OFFICE OF PETITIONS

In re Application of	:	
David H. Nowak et al	:	
Application No. 11/010,896	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 27,503-13	:	

This is a decision on the petition filed June 8, 2005, requesting reconsideration of a decision mailed May 10, 2005, which refused to accord 37 CFR 1.47(a) status to the above-identified application. The request for reconsideration was accompanied by a declaration signed by previously nonsigning inventor Stanley Schroeder.

The petition is dismissed

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

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

A review of the file record discloses that a Declaration was filed with the application papers on December 13, 2004, which declaration set forth David H. Nowak and Stanley Schroeder as joint inventors an was signed by Nowak. However, the declaration fails to set forth the inventors' residence and post office address.

The Combined Declaration and Power of Attorney received on June 8, 2005 was signed by Stanley Schroeder, the previously nonsigning inventor, lacks compliance with 37 CFR 1.63(a)(2) and 1.64 in that the declaration does not provide a signature block for Nowak as a joint inventor

nor provide Nowak's residence and post office address. Petitioner's attention is directed to MPEP Section 602, which states: "When joint inventors execute separate oaths or declarations, each oath or declaration should make reference to the fact that the affiant is a joint inventor together with the other joint inventors indicating them by name." Accordingly, an ADS or a new declaration which lists all the inventors and is signed by all the inventors 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
Randolph Building
401 Dulany street
Alexandria, VA 22314

By fax: (571) 272-3220
ATTN: Office of Petitions

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

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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POST OFFICE BOX 18455
MINNEAPOLIS, MN 55418

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OFFICE OF PETITIONS

In re Application of	:
David H. Nowak et al	: DECISION NOTING JOINDER OF
Application No. 11/010,896	: INVENTOR AND PETITION
Filed: December 13, 2004	: UNDER 37 CFR 1.47(a) MOOT
For: PRECURE CONSOLIDATOR	:

This is a decision on the petition filed November 1, 2005, requesting reconsideration of a decision mailed October 13, 2005, which refused to accord 37 CFR 1.47(a) status to the above-identified application. Papers filed on November 1, 2005 included a Declaration signed by the previously nonsigning inventor Stanley Schroeder in compliance with 37 CFR 1.63 and 1.64.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This matter is being referred to Technology Center AU 1733 for examination in due course.

Inquiries related to this decision may be addressed to Wan Laymon at (571) 272-3220.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

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CHICAGO IL 60661

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MAY 2 7 2005

OFFICE OF PETITIONS

In re Application of :
Pieter Gert Wessel Van Rooyen :
Application No. 11/010,903 : ON PETITION
Filed: December 13, 2004 :
Attorney Docket No. 16336US01 :

This is a decision on the petition filed March 17, 2005, requesting that the above-identified application, be accorded a filing date of December 13, 2004.

The petition is **GRANTED**.

After the application was filed and a filing date accorded, the Office of Initial Patent Examination mailed a "Notice of Omitted Items" on January 24, 2005, stating that while the application had been accorded a filing date, that Figures 1e-1f as described in the specification, appeared to have been omitted. In response to the Notice, on February 7, 2005, petitioner filed, *inter alia*, an amendment to the drawings and copies of Figures 1e-1f. The filing date was changed to the date the omitted drawings were filed.

In response, the present petition was filed. Petitioner now requests that the application be accorded the original filing date of December 13, 2004. Petitioners further claim that the drawing figures were present in a "co-pending application" that was identified by an Attorney Docket Number, which is now application no. 11/010,743.

The mailing of a "Notice of Omitted Items" permits the applicant to either: (1) promptly establish prior receipt in the PTO of the drawing(s) at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted drawing(s) in a nonprovisional application and accept the date of such submission as the application filing date. An applicant asserting that the missing drawings were in fact deposited in the PTO with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted drawings in a nonprovisional application and accept the date of such submission as the application filing date must file any

omitted drawing(s) with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such drawing(s) and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the "Notice of Omitted Items" (37 CFR 1.181(f)). Finally, the third option is in the absence of electing options 1) or 2) above, to constructively opt to accept the filing date which has been accorded with the papers filed upon application. With option 3), no petition under 37 CFR 1.182 is necessary for that purpose.

In this case, a review of the file does not reveal that a petition and petition fee were filed on February 7, 2005, just the amendment and the alleged omitted figures.

In the absence of a petition, since applicant neither admits nor denies that Figures 1e-1f were present upon filing and in view of the amendment filed February 7, 2005 in response to the Notice, it appears that the applicant is constructively electing to have the application accepted as filed on December 13, 2004 without Figures 1e-1f.

In view of the above, the petition fee in the amount of $400.00 will be credited to deposit account no. 13-0017.

The Office of Initial Patent Examination will be notified to restore the original filing date to December 13, 2004, process the application without Figures 1e-1f as part of the original disclosure, and the amendment filed February 7, 2005 will be retained in the file for review by the Examiner in due course.

Any further concerns specific to this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO, IL 60690-2786

Mail Date: 04/20/2010

Applicant	: Martyn Hollins	: DECISION ON REQUEST FOR
Patent Number	: 7639633	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,908	: 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 **1415** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR - 7 2005

CHALKER FLORES, LLP
12700 PARK CENTRAL, STE. 455
DALLAS TX 75251

In re Application of	:
Mark Tengler et al	:
Serial No.: 11/010,944	: PETITION TO MAKE SPECIAL
Filed: December 13, 2004	:
Attorney Docket No.: PHFB:1013	:

This is in response to the petition filed March 25, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement. Therefor the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the Office general facsimile number 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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Paper No.

Fletcher Yoder
P.O Box 692289
Houston, TX 77269

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DEC 0 6 2005
OFFICE OF PETITIONS

In re Application of :
Bissey et al. :
Application No. 11/010,951 : DECISION ON PETITION
Deposited: December 13, 2004 :
Atty Docket No. 00-1136.02 :
(MICS:0097-2) :
:

This is in response to the paper styled RESPONSE TO THE NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION filed August 4, 2005. Applicants, in effect, request withdrawal of the Notice of Incomplete Nonprovisional Application mailed March 30, 2005.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the mailing date of this decision. See 37 CFR 1.181(f). This time period is not extendable under § 1.136(a).

Application papers were deposited in the above-identified application on December 13, 2004. However, on March 30, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. Applicants were advised to either show that drawings had been present in the application on filing or submit drawings with a newly executed oath or declaration covering them (and accept a later filing date). In addition, applicants were advised that fees were due (statutory basic filing fee, application search fee, application examination fee and additional claim fees).

In response, applicants filed the instant response, asserting that both the executed Declaration and formal drawings were submitted at the time of filing of the present application. In support thereof, applicants submitted a copy of their postcard. In addition, applicants submitted the executed Declaration and formal drawings. (The response also included a preliminary amendment described by applicants as cancelling claims 21-62).

35 USC 111(a)(4) provides that:

> the filing date of a nonprovisional application shall be the date on which the specification and any required drawing[1] are received in the Patent and Trademark Office.

The PTO file is the official record of the papers originally filed in this application. A review of the image file wrapper for this application reveals that the application papers received in the Office on December 13, 2004 did not include drawings. No drawings are among the papers received. Since no drawings are present in the file, it is concluded that no drawings were filed.

An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The best evidence of what was filed on December 13, 2004, is a proper return postcard receipt. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a copy of an itemized postcard. However, the postcard lacks an Office date stamp. As such, the postcard does not serve as *prima facie* evidence of what was filed in the Office on December 13, 2004. The conclusion that no drawings were received on that date is not overcome.

It is noted that a review of the application as filed reveals that it included an application transmittal stating that the application is a continuation of 10/652,944. However, the record does not support a conclusion that applicants could rely

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[1] It is noted that a review of the application indicates that all of the method claims were cancelled. Accordingly, the practice of treating the application as one not requiring drawings because of the presence of at least one method claim is not applicable.

on this prior-filed application to include any omitted drawings in the present application and be accorded a filing date, even if the drawings were completely contained in the prior application.

First, of all, neither the transmittal nor the specification includes an explicit incorporation by reference of the prior application. Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. In re de Seversky, 474 F.2d 671, 177 USPQ 144 (CCPA 1973). See MPEP § 608.01(p).

Secondly, applicants do not meet the requirements of revised 37 CFR § 1.57 on incorporation by reference (effective September 21, 2004). This rule provides that for applications filed on or after September 21, 2004, a claim for the benefit of a prior-filed application under 37 CFR 1.78 is considered an incorporation by reference as to inadvertently omitted material[2]. See MPEP § 201.17. Unfortunately, a review of the application as filed indicates that it did not include a claim under § 1.78 for the benefit of prior-filed application No. 10/652,944. The priority claim under 37 CFR 1.55 or the benefit claim under 37 CFR 1.78 of the prior-filed application must be present on the filing date of the later-filed application in order for it to be considered an incorporation by reference of the prior-filed application under 37 CFR 1.57(a).

In view thereof, it is concluded that the application as filed is not entitled to a filing date.

The application is presently entitled to a filing date of August 4, 2005, the date of receipt of drawings.

---

[2] This rule provides, 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 § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

The application **with a filing date of August 4, 2005**, is being forwarded to the Office of Initial Patent Examination (OIPE) for processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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OIPE
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Paper No.

Fletcher Yoder
P.O Box 692289
Houston, TX 77269

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FOR 2/6/2006
BY n 12/12
CHEC'D BY KH 12/13

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DEC 06 2005
OFFICE OF PETITIONS

In re Application of
Bissey et al.
Application No. 11/010,951
Deposited: December 13, 2004
Atty Docket No. 00-1136.02
(MICS:0097-2)

DECISION ON PETITION

RECEIVED
DEC 12 2005
Fletcher Yoder

This is in response to the paper styled RESPONSE TO THE NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION filed August 4, 2005. Applicants, in effect, request withdrawal of the Notice of Incomplete Nonprovisional Application mailed March 30, 2005.

The petition is **DISMISSED**.

Any request for reconsideration must be filed within **TWO MONTHS** of the mailing date of this decision. See 37 CFR 1.181(f). This time period is not extendable under § 1.136(a).

Application papers were deposited in the above-identified application on December 13, 2004. However, on March 30, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application," notifying applicants that the application papers had not been accorded a filing date because the application was deposited without drawings. Applicants were advised to either show that drawings had been present in the application on filing or submit drawings with a newly executed oath or declaration covering them (and accept a later filing date). In addition, applicants were advised that fees were due (statutory basic filing fee, application search fee, application examination fee and additional claim fees).

In response, applicants filed the instant response, asserting that both the executed Declaration and formal drawings were submitted at the time of filing of the present application. In support thereof, applicants submitted a copy of their postcard. In addition, applicants submitted the executed Declaration and formal drawings. (The response also included a preliminary amendment described by applicants as cancelling claims 21-62).

35 USC 111(a)(4) provides that:

> the filing date of a nonprovisional application shall be the date on which the specification and any required drawing[1] are received in the Patent and Trademark Office.

The PTO file is the official record of the papers originally filed in this application. A review of the image file wrapper for this application reveals that the application papers received in the Office on December 13, 2004 did not include drawings. No drawings are among the papers received. Since no drawings are present in the file, it is concluded that no drawings were filed.

An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The best evidence of what was filed on December 13, 2004, is a proper return postcard receipt. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Petitioner has submitted a copy of an itemized postcard. However, the postcard lacks an Office date stamp. As such, the postcard does not serve as *prima facie* evidence of what was filed in the Office on December 13, 2004. The conclusion that no drawings were received on that date is not overcome.

It is noted that a review of the application as filed reveals that it included an application transmittal stating that the application is a continuation of 10/652,944. However, the record does not support a conclusion that applicants could rely

---

[1] It is noted that a review of the application indicates that all of the method claims were cancelled. Accordingly, the practice of treating the application as one not requiring drawings because of the presence of at least one method claim is not applicable.

on this prior-filed application to include any omitted drawings in the present application and be accorded a filing date, even if the drawings were completely contained in the prior application.

First, of all, neither the transmittal nor the specification includes an explicit incorporation by reference of the prior application. Mere reference to another application, patent, or publication is not an incorporation of anything therein into the application containing such reference for the purpose of the disclosure required by 35 U.S.C. 112, first paragraph. In re de Seversky, 474 F.2d 671, 177 USPQ 144 (CCPA 1973). See MPEP § 608.01(p).

Secondly, applicants do not meet the requirements of revised 37 CFR § 1.57 on incorporation by reference (effective September 21, 2004). This rule provides that for applications filed on or after September 21, 2004, a claim for the benefit of a prior-filed application under 37 CFR 1.78 is considered an incorporation by reference as to inadvertently omitted material[2]. See MPEP § 201.17. Unfortunately, a review of the application as filed indicates that it did not include a claim under § 1.78 for the benefit of prior-filed application No. 10/652,944. The priority claim under 37 CFR 1.55 or the benefit claim under 37 CFR 1.78 of the prior-filed application must be present on the filing date of the later-filed application in order for it to be considered an incorporation by reference of the prior-filed application under 37 CFR 1.57(a).

In view thereof, it is concluded that the application as filed is not entitled to a filing date.

The application is presently entitled to a filing date of August 4, 2005, the date of receipt of drawings.

---

[2] This rule provides, 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 § 1.55 for priority of a prior-filed foreign application, or a claim under § 1.78 for the benefit of a prior-filed provisional, nonprovisional, or international application, that was present on the filing date of the application, and the inadvertently omitted portion of the specification or drawing(s) is completely contained in the prior-filed application, the claim under § 1.55 or § 1.78 shall also be considered an incorporation by reference of the prior-filed application as to the inadvertently omitted portion of the specification or drawing(s).

The application **with a filing date of August 4, 2005**, is being forwarded to the Office of Initial Patent Examination (OIPE) for processing.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Paper No.

Fletcher Yoder
P.O Box 692289
Houston, TX 77269

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OFFICE OF PETITIONS

In re Application of	:	
Bissey et al.	:	
Application No. 11/010,951	:	DECISION ON PETITION
Filed: December 13, 2004	:	
Atty Docket No. 00-1136.02	:	
(MICS:0097-2)	:	
	:	

This is in response to the paper styled RESPONSE TO DECISION ON PETITION MAILED DECEMBER 6, 2005 filed February 8, 2006, requesting that the above-identified application be accorded a filing date of December 13, 2004. This renewed petition was recently forwarded to the undersigned for consideration.

By decision mailed December 6, 2005, the initial paper styled RESPONSE TO THE NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION filed August 4, 2005 was dismissed. Applicants had requested withdrawal of the Notice of Incomplete Nonprovisional Application mailed March 30, 2005 on the basis that drawings had been filed on December 13, 2004, and thus, the application was complete and entitled to a filing date of December 13, 2004. The petition was dismissed for failure to submit persuasive evidence that the application as deposited on December 13, 2004 included drawings. Petitioner submitted a return postcard; however, petitioner failed to include a copy of the side of the postcard bearing the USPTO date-stamp.

In view thereof, the petition was dismissed and the application was accorded a filing date as of the date of submission of the drawings, August 4, 2005. (Prosecution of the application continued with a filing date of August 4, 2005. The application is now under allowance).

Petitioner timely responded with the instant request for reconsideration, including a copy of the front and back of the return postcard. A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the USPTO on December 13, 2004, and the items filed therewith were assigned Application No. 11/010951; 2) it specifically identifies the items being filed, including "Formal Drawings" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including drawings, were filed on December 13, 2004.

It is concluded that the application-as-filed included drawings and is entitled to a filing date.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 13-3092, as authorized.

The application filing date has been **corrected to December 13, 2004**, including the drawings resubmitted August 4, 2005. A corrected filing receipt showing the filing date is enclosed.

Given the mailing of the notice of allowance on July 26, 2007, the application is being forwarded for processing to the Office of Patent Publications.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/010,951	12/13/2004	2815	1000	MICS:0097-2/FLE (00-1136.	20	1

CONFIRMATION NO. 1871

CORRECTED FILING RECEIPT

OC000000025420056

Fletcher Yoder
P.O Box 692289
Houston, TX 77269

Date Mailed: 08/16/2007

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)

Lucien J. Bissey, Boise, ID;
Kevin G. Duesman, Boise, ID;

Assignment For Published Patent Application

Micron Technology, Inc.

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/010,951

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

ANNULAR GATE AND TECHNIQUE FOR FABRICATING AN ANNULAR GATE

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).

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Fletcher Yoder
P.O. Box 692289
Houston, TX 77269

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OFFICE OF PETITIONS

In re Lucien J. Bissey et al.	:	
Application No.: 11/010,951	: **DECISION**	
Filed: December 13, 2004	: **DISMISSING**	
Patent No.: 7,276,754	: **PETITION**	
Issued: October 2, 2007	:	

This is a decision on the October 31, 2007 petition titled "Petition To The Director Under 37 CFR 1.181," which requests the Office to issue a corrected patent for U.S. Patent No. 7,276,754 ("the '754 patent") ("the October 31, 2007 petition").

The October 31, 2007 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The October 31, 2007 petition is **dismissed**.

The October 31, 2007 petition identifies two errors to be corrected in the '754 patent.

First, the petition states that the August 4, 2005 application filing date currently identified on the face of the '754 patent is incorrect and should instead be December 13, 2004, consistent with the August 17, 2007 Decision on Petition.

Second, the petition states that the '754 patent issued without any domestic benefit information on the face of the patent. Specifically, the petition states the following with respect to the second error:

> [a]s indicated in the transmittal of the present application at the time of filing, the present application is a Continuation of prior application serial number 10/652,944 which was filed on August 29, 2003 and issued as U.S. Pat. No. 6,841,438 on December 23, 2004. The priority information was affirmed on the original filing receipt provided by the Office. Applicants requested that this information be added to the first line of the specification. However, this information does not appear on the front of the patent.[1]

[1] In fact, the domestic benefit information at issue appears neither on the face of the '754 patent nor in the '754 patent specification.

35 U.S.C. 254 is titled "Certificate of correction ***of Patent and Trademark Office mistake***" (emphasis added) and is the sole provider of statutory authority for the Office to issue a corrected patent. It provides: "[w]henever a mistake in a patent, ***incurred through the fault of the Patent and Trademark Office***, is clearly disclosed by the records of the Office, the Director ***may*** issue a certificate of correction ...." (Emphases added.) The last line of 35 U.S.C. 254 states that "[t]he Director ***may*** issue a corrected patent without charge in lieu of and with like effect as a certificate of correction." (Emphasis added.) Notably, 35 U.S.C. 255, which is titled "Certificate of correction ***of applicant's mistake***" (emphasis added), does not mention a corrected patent.

37 CFR 1.322(b) is the regulation implementing 35 U.S.C. 254; it provides:

> If the nature of the ***mistake on the part of the Office*** is such that a certificate of correction is deemed inappropriate in form, the Director ***may*** issue a corrected patent in lieu thereof as a more appropriate form for certificate of correction, without expense to the patentee. [Emphases added.]

Thus, issuance of a corrected patent under 35 U.S.C. 254 and 37 CFR 1.322(b) is reserved for those instances in which the mistake to be corrected in the patent is a mistake on the part of the Office, ***and*** in which a certificate of correction is deemed inappropriate in form. In addition, as explained at MPEP 1480, "[t]he Office ... has discretion under 35 U.S.C. 254 to decline to issue a Certificate of Correction even though an Office mistake exists." Therefore, it necessarily follows from the language of the statute, the regulation, and MPEP 1480 that the Office has discretion to decline to issue a corrected patent.

In the present case, the Office has no statutory authority to issue a corrected patent for the '754 patent which would include a domestic benefit claim to U.S. Application No. 10/652,944 ("the '944 application), because it was not a mistake on the part of the Office for the '754 patent to issue without the domestic benefit claim to the '944 application. As explained at MPEP 201.11(III):

> [t]he third requirement of [35 U.S.C. 120] is that the later-filed application must contain a specific reference to the prior application. This should appear as the first sentence(s) of the specification following the title preferably as a separate paragraph (37 CFR 1.78(a)) and/or in an application data sheet (37 CFR 1.76).

A review of the Image File Wrapper (IFW) for the '754 patent reveals that the specification as originally filed did not contain the required reference to the '944 application. The IFW for the '754 patent does not reveal any amendment made during prosecution to add to the specification the required reference to the '944 application. The IFW for the '754 patent does not reveal any application data sheet filed during

prosecution. Thus, the IFW for the '754 patent reveals that the third requirement of 35 U.S.C. 120 was not satisfied.

The October 31, 2007 petition states that a benefit claim to the '944 application was included in the transmittal form, and that "[t]he priority information was affirmed on the original filing receipt provided by the Office." However, MPEP 201.11(III)(D) specifically addresses the situation where (i) "an applicant includes a benefit claim in the application but not in the manner specified by 37 CFR 1.78(a) (e.g., if the claim is included in an oath or declaration or the application transmittal letter)" and (ii) the information concerning the claim was recognized by the Office as shown by its inclusion on the filing receipt. In particular, MPEP 201.11(III)(D) explains that "[e]ven if the Office has recognized a benefit claim by entering it into the Office's database and including it on applicant's filing receipt, the benefit claim is not a proper benefit claim under 35 U.S.C. 119(e) or 35 U.S.C. 120 and 37 CFR 1.78 unless the reference is included in an ADS or in the first sentence>(s)< of the specification and all other requirements are met."

The October 31, 2007 petition also states that "Applicants requested that [the domestic benefit] information be added to the first line of the specification." However, as stated above, the IFW for the '754 patent does not reveal any request to amend the specification to add the required reference to the '944 application.

Therefore, it was not a mistake on the part of the Office for the '754 patent to issue without the domestic benefit claim to the '944 application.

With respect to the application filing date error identified in the October 31, 2007 petition, even assuming, *arguendo*, that the application filing date error is a mistake incurred through the fault of the Office, the application filing date error does not justify issuance of a corrected patent. Specifically, a certificate of correction is <u>appropriate</u> in form to correct the application filing date error identified in the October 31, 2007 petition.

In this regard, a certificate of correction is typically appropriate in form where, as here, the error comprises less than substantially the entire document. Indeed, a certificate of correction is the normal mechanism for correcting a patent with an application filing date error such as the application filing date error identified in the October 31, 2007 petition.

For all of the foregoing reasons, the October 31, 2007 petition is **<u>dismissed</u>**.

Petitioner is advised to file a request for certificate of correction to correct the application filing date error identified in the October 31, 2007 petition.

Any inquiry concerning this decision should be directed to Raul Tamayo, Legal Advisor, at (571) 272-7728.

Brian E. Hanlon

Brian E. Hanlon
Director
Office of Patent Legal Administration
Office of the Associate Commissioner
for Patent Examination Policy

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DEIRDRE SANDERS
HAMILTON, BROOK,SMITH & REYNOLDS P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD MA 01742-9133

In re Application of JUNMING LE, JAN T. VILCEK, PETER DADDONA, JOHN GHRAYEB, DAVID M. KNIGHT, SCOTT A. SIEGEL AND DAVID SHEALY Serial No.: 11/010,954 Filed: December 13, 2004 Attorney Docket No.: 0975.1005-043	: PETITION TO MAKE SPECIAL

This is in response to applicants' petition filed JULY 15, 2005 , to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

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

Mail Date: 04/21/2010

Applicant	: Emmett M. Kilgariff	: DECISION ON REQUEST FOR
Patent Number	: 7609272	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/010,972	: 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 **1352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:	
COHEN, Gary H. et al.	:	
Application No. 11/010,979	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 53893-5055CT1	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed June 11, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes the declaration of inventor Gary Cohen, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

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

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 1648 for action on the merits commensurate with this decision.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Hee Youl Lee :
Application No. 11/010,987 : ON PETITION
Filed: December 13, 2004 :
Attorney Docket No. 29936/40728 :

This is a decision on the petition, filed March 23, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2822 will consider the request for continued examination under 37 CFR 1.114.

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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ORAMETRIX, INC.
2350 CAMPBELL CREEK BOULEVARD, SUITE 400
RICHARDSON TX 75082

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In re Application of	:	
Hans Imgrund, et al.	:	
Application No. 11/010,994	:	DECISION ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 02-228-C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 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 January 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 29, 2007. Accordingly, the date of abandonment of this application is January 30, 2008. The Notice of Abandonment was mailed February 21, 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 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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

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

Chris Bottorff
Petitions Examiner
Office of Petitions

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600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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OFFICE OF PETITIONS

In re Application of :
Paramvir Bahl, et al. :
Application No. 11/011,010 : ON PETITION
Filed: December 13, 2004 :
Attorney Docket No.: 232269 :

This is a decision on the petition, filed June 7, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 29, 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 2617 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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Date : June 8, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) : Paramvir Bahl, et al.
Application No. : 11/011,010
Filed : December 13, 2004

The above-identified application has been assigned Patent No. 7,065,357 and an issue date of June 20, 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 June 20, 2006:

> "All reference to Patent No. 7,065,357 to PARAMVIR BAHL, ET AL. of WASHINGTON for POWER EFFICIENT CHANNEL SCHEDULING IN A WIRELESS NETWORK appearing in the Official Gazette of June 20, 2006, should be deleted since no patent was granted."

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: Paul Harrison, Crystal Park 3-44I (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 3-9I0 (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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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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OFFICE OF PETITIONS

In re Application of :
Geyer :
Application No. 11/011,025 : DECISION ON PETITION
Filed: December 13, 2004 :
Docket No.: AMPAC-54R :

This is a decision on the petition under 37 CFR 1.181, filed October 4, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed February 8, 2007. Notice of Abandonment was mailed September 18, 2007.

Petitioner asserts non-receipt of the non-final Office action.

In the absence of any irregularity in the mailing of an Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. *See*, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

The arguments and supporting documentation presented have been carefully considered. Moreover, petitioner has included a copy of a docket report covering the time period that a response would have been due had it been received. In view thereof, the evidence

presented support the conclusion that the non-final Office action was not received.

In view thereof the Notice of Abandonment is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to Technology Center 3700 further processing of the response to the non-final Office action submitted herewith.

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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,045	12/15/2004	Hiroshi Kakii	263295US2	2327

22850 7590 05/07/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
SAN JUAN, MARTINJERIKO P

ART UNIT	PAPER NUMBER
2432	

NOTIFICATION DATE	DELIVERY MODE
05/07/2009	ELECTRONIC

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

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

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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MAY 06 2009

TECHNOLOGY CENTER 2100

James J. Kulbaski
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of:
Hiroshi Kakii
Application No. 11/011,045
Filed: December 15, 2004
For: Digital Certificate Transferring Method, Digital Certificate Transferring Apparatus, Digital Certificate Transferring System, Program and Recording Medium

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

This is a decision on the petition filed on April 10, 2009 under 37 CFR § 1.181(a)(3) requesting that the Examiner consider reference (AW) listed on the Form PTO-1449 filed with the Information Disclosure Statement (IDS) on March 28, 2005.

The petition is **GRANTED**.

BACKGROUND

A telephone conversation between the examiner and petitioner indicated that the AW reference was not considered because the publication lacked a date. The petition argues that the lower right hand corner of the document contains an effective date of February 15, 2005, and therefore the reference should be considered as it meets the requirements of rules 1.97 and 1.98.

A review of the AW document indicates that the February 15 date is the date the reference was printed out and not the date of publication of the document. When a typical webpage is printed out the bottom line of the page is the url of where the document is located followed in the right hand bottom corner of the document the date of the printout. A review of the AW document indicates a copyright date of 2004 on the middle left sections of pages 2 and 4 in the IFW file. The top paragraph of page 12 of the specification of this application indicates that the date of the publication is November 26, 2003.

DECISION

As the record establishes the date of the AW document the inclusion of this document in the information disclosure statement meets the requirements of 37 CFR 1.97 & 1.98 and therefor should be considered and this petition is granted.

A copy of this decision is being forwarded to the examiner's SPE to notify the examiner to consider the reference (AW) and mail petitioner a notice indicating that the AW document has been considered.

Any inquiry concerning this decision should be directed to Tod Swann at (571) 272-3612.

Tod Swann
WorkGroup QAS
Technology Center 2400

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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SEP 25 2008

In re Application of	:	
PARK, Jong-Jin	:	
Application No. 11/011,066	:	DECISION GRANTING PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8733.1269.00-US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is GRANTED.

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

Petitioner is advised that the issue fee paid on September 15, 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 2871 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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Sun Microsystems, Inc.
c/o Darby & Darby P.C.
P.O. Box 770
Church Street Station
New York, NY 10008-0770

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JUN 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Hsiao-Keng J. Chu et al.	:	
Application No. 11/011,076	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 20910/0206103-US0	:	FROM RECORD
	:	

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 John W. Branch on behalf of all attorneys/agents associated with customer number 62663. All attorneys/agents/associated with customer number 62663 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 assignee. 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: Osha Liang, LLP/Sun
1221 McKinney, Suite 2800
Houston, TX 77010

cc: Sun Microsystems, Inc.
4150 Network Circle
Santa Clara, CA 95054

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
11/011,076	12/14/2004	Hsiao-Keng J. Chu	20910/0206103-US0

CONFIRMATION NO. 4478

POWER OF ATTORNEY NOTICE

OC000000030238500

62663
Sun Microsystems, Inc.
c/o DARBY & DARBY P.C.
P.O. BOX 770
Church Street Station
NEW YORK, NY 10008-0770

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Takahiro Doi	: DECISION ON REQUEST FOR
Patent Number	: 7599102	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,086	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1270** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP
1250 CONNECTICUT AVENUE, NW
SUITE 700
WASHINGTON DC 20036

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JUL 1 0 2006

OFFICE OF PETITIONS

In re Application of
Kimura, et al.
Application No. 11/011,113
Filed: December 15, 2004
Attorney Docket No. 043090
For: SEMICONDUCTOR DEVICE AND METHOD OF MANUFACTURING THE SAME

: DECISION ON PETITION
: UNDER 37 CFR 1.181

This is a decision on the petition under 37 CFR 1.181, filed May 9, 2006, to withdraw the holding of abandonment of the above-identified application.

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

This application was held abandoned due to applicants' alleged failure to reply within one month to the Office action (restriction requirement), mailed August 8, 2005. The Office contended that this application became abandoned on September 9, 2005. A Notice of Abandonment was mailed on May 3, 2006.

Petitioners assert that an election was timely received in the Office on September 7, 2005. 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 September 7, 2005 as the date of receipt, affixed thereto. The postcard lists that the filing contained a Response to Restriction Requirement.

The return postcard constitutes *prima facie* evidence that the item listed thereon, a Response to Restriction Requirement, was received in the Office on September 7, 2005. MPEP 503. Petitioners have provided a copy of the September 7, 2005 correspondence. Accordingly, the petition to withdraw the holding of abandonment is granted.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 2823 for consideration of the election filed on September 7, 2005 and resubmitted with the instant petition on May 9, 2006.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : April 04, 2008

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/011119 Patent No.: 7233758 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

xApproved (/RB/ 4/12/08)	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

/David M. Gray/ 2852
SPE **Art Unit**

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MADSON & AUSTIN
15 WEST SOUTH TEMPLE
SUITE 900
SALT LAKE CITY, UT 84101

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OFFICE OF PETITIONS

In re Application of :
Kun-Chih Wang :
Application No. 11/011,130 : ON PETITION
Filed: December 15, 2004 :
Attorney Docket No. BHT-3249-26 :

This is a decision in response to the petition, filed September 11, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 17, 2007, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extension of time under the provisions of 37 CFR 1.136(a) was obtained. A Notice of Abandonment was mailed on September 7, 2007. In response, on September 11, 2007 the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

The application is being referred to Technology Center AU 1731 for consideration of the response filed September 11, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080602

DATE : June 2, 2008

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction on Patent No.: 7239831

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Mr. David Gray **Art Unit** 2852

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK NY 10008-0770

In re Application of
Nancy Puglia et al.
Application No. 11/011,176
Filed: December 15, 2004
Attorney Docket No: 20969/1206472-US2

ON PETITION

This is a decision on the petition filed August 14, 2009 under 37 CFR 1.182, for withdrawal of the terminal disclaimer filed June 30, 2009.

The petition is **GRANTED**.

The examiner responsible for the above-identified application has indicated that the terminal disclaimer filed June 30, 2009 does not apply to any of the claims as currently amended. Accordingly, on petition the terminal disclaimer is withdrawn.

The petition fee in the amount of $400.00 has been charged to deposit account no. 04-0100 pursuant to the authorization contained in the petition.

This matter is being referred to Technology Center 1627 to correct the records related to the terminal disclaimer filed June 30, 2009, consistent with this decision.

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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DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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FEB 12 2010

In re Application of	:	
Nancy Puglia, et al.	:	
Application No.: 11/011,176	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No.: 20969/1206472-US2	:	

This is a decision on the petition, filed February 9, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 10, 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 1627 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

---

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

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DIW Nov-06

CHOW LEUNG TONY CHENG
FLAT A, 3/F, BLOCK 21, PARC VERSAILLES II
3 MUI SHU HANG ROAD
TAI PO, N.T. HK
HONG KONG

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OFFICE OF PETITIONS

In re Application of	:	
Chow Leung Tony Cheng	:	
Application No. 11/011,179	:	ON PETITION
Filed: 15 December, 2004	:	
For: SPECTACLE ASSEMBLY	:	

This is a decision in reference to the paper entitled "TO WITHDRAW THE HOLDING OF ABANDONMENT OF APPLICATION NO. 11/011,179" filed on 29 September, 2006, which is treated as a petition under 37 CFR 1.181.

The petition is **DISMISSED**.

This application became abandoned on 3 April, 2005, for failure to submit a timely and proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on 2 February, 2005, which set a two (2) month shortened statutory period for reply. On 28 March, 2005, petitioner filed a reply to the Notice. However, on 7 April, 2005, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that the response to the Notice mailed on 2 February, 2005, was incomplete, and that the period for reply set in the Notice mailed on 2 February, 2005, continued to run, and that extensions of the time for reply under 37 CFR 1.136(a) were available. No extensions of time were obtained. Notice of Abandonment was mailed on 6 September, 2006.

Petitioner states that the Notice mailed on 7 April, 2005, may have been misplaced due to renovations at petitioner's home.

The showing of record is insufficient to withdraw the holding of abandonment.

Petitioner essentially concedes that the Notice was lost after receipt. Withdrawal of the holding of abandonment is not appropriate where, as here, the Notice was received by petitioner and lost after receipt.[1] Rather, where the delay was unintentional, a petition to revive under 37 CFR 1.137(b) is required.

The petition to withdraw the holding of abandonment is **dismissed**. As the showing of record is insufficient to withdraw the holding of abandonment, the petition is **dismissed**.

Petitioner may wish to consider filing a petition to revive the application, accompanied by the proper fee. A copy of the form for filing a petition to revive under 37 CFR 1.137(b), and a copy of the fee schedule, is enclosed.

Based on anticipated action by the U.S. Congress, USPTO's current patent and trademark fee schedules will continue in effect on October 1, 2006, and beyond. Should any revision become necessary, it will be announced on this website as promptly as possible. As such, petitioner should check the USPTO's website at www.uspto.gov to verify the correct fee prior to filing a petition.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision. **This period may not be extended.**[2]

Receipt of the change of correspondence address is acknowledged.

It is noted that petitioner was using a Customer Number. The correspondence address has been changed from the Customer Number to the address listed in the Change of Correspondence Address. If the address associated with the Customer Number is to be changed, the Request for Customer Number Data Change should be completed and returned to the Office. Additionally, petitioner may wish to file a new Change of Correspondence Address to continue using the Customer Number as the address of record.

---

[1] MPEP 711.03(c).

[2] 37 CFR 1.181(f).

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
PTO/SB/122
PTO/SB/124A
Fee Schedule

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FLAT A, 3/F, BLOCK 21, PARC VERSAILLES II
3 MUI SHU HANG ROAD
TAI PO, N.T. HK
HONG KONG

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APR 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Chow Leung Tony Cheng	:	
Application No. 11/011,179	:	ON PETITION
Filed: 15 December, 2004	:	
For: SPECTACLE ASSEMBLY	:	

This is a decision in reference to the petition under 37 CFR 1.137(b) filed on 12 January, 2007.

The petition is **GRANTED**.

This application became abandoned on 3 April, 2005, for failure to submit a timely and proper response to the Notice to File Missing Parts of Nonprovisional Application mailed on 2 February, 2005, which set a two (2) month shortened statutory period for reply. On 28 March, 2005, petitioner filed a reply to the Notice. However, on 7 April, 2005, a Notice of Incomplete Reply (Nonprovisional) was mailed, stating that the response to the Notice mailed on 2 February, 2005, was incomplete, and that the period for reply set in the Notice mailed on 2 February, 2005, continued to run, and that extensions of the time for reply under 37 CFR 1.136(a) were available. No extensions of time were obtained. Notice of Abandonment was mailed on 6 September, 2006. The petition filed on 29 September, 2006, was dismissed on 30 November, 2006.

The application is forwarded to Initial Patent Examination Division for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of	:	
Tse-Hsiang Hsu, et al.	:	
Application No. 11/011,182	:	DECISION ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. 25-1316-1860	:	

This is a decision on the petition, filed April 20, 2010, 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 mailed October 1, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 4, 2009.

Petitioner asserts that the Office action dated October 1, 2008 was not received.

A review of the written record indicates an irregularity in the mailing of the Office action of October 1, 2008. In this regard, the Office received a new power of attorney and change of correspondence address on October 15, 2007, prior to the mailing of the Office action of October 1, 2008. Office records were not updated to reflect this new change of address. It is noted that a change of correspondence address filed on February 23, 2008 was also not properly handled. Accordingly, as the Office action of October 1, 2008 was mailed to an incorrect address, the Notice of Abandonment mailed June 4, 2009 is hereby vacated and the holding of abandonment withdrawn.

Receipt is acknowledged of the change of correspondence address filed on April 20, 2010. PTO records will be updated accordingly.

This application is being referred to the Technology Center technical support staff of Art Unit 2627 for remailing the Office action of October 1, 2008 and resetting the period for reply.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries regarding this application should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

WENDEROTH, LIND & PONACK, L.L.P.
1030 15TH STREET NW, SUITE 400 EAST
WASHINGTON, DC 20005-1503

COPY MAILED
JAN 25 2010

In re Application of :
Toshiaki IIO, et *al.* :
Application No. 11/011,184 : DECISION GRANTING PETITION
Filed: December 15, 2004 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2004_1980A** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 22, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 17, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 3731 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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

COPY MAILED

MAY 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Noboru Yokoyama	:	
Application No. 11/011,213	:	ON PETITION
Filed: December 13, 2004	:	
Attorney Docket No. 00862.103547	:	

This is a decision on the petition, filed May 18, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on April 17, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2876 will consider the request for continued examination under 37 CFR 1.114.

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).

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

IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS TX 75380

COPY MAILED
JUN 20 2008

In re Application of	:	
Brown, et al.	:	
Application No. 11/011,247	:	DECISION
Filed: 14 December, 2004	:	
Attorney Docket No. AUS920040724US1	:	

This is a decision on the petition, filed on 7 April, 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 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." (If Petitioner cannot satisfy the evidentiary requirements necessary for a petition to withdraw the holding of abandonment to be granted, Petitioner may alternatively file a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific

fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

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

A proper showing requires at the very minimum:

- A statement from practitioner stating that the Office action was not received by the practitioner;
- A statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and
- A **brief** statement of the calendaring process and a copy of the due-date (calendar) docket record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively:

- A statement from practitioner stating that the reply was timely submitted by the practitioner;
- Copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to the non-final Office action mailed on 22 June, 2007, (copy enclosed) with reply due absent extension of time on or before 22 September, 2007.

The application went abandoned by operation of law after midnight 22 September, 2007.

The Office mailed the Notice of Abandonment on 3 April, 2008.

On 7 April, 2008, Petitioner filed the instant petition, with, *inter alia*, an averment that the non-final Office action was not received, however:

- Petitioner failed to comply with the showing requirements (statement and documents) set forth in brief above, and set out in detail below with the provisions of MPEP §711.03(c); and
- At least one of the documents submitted by Petitioner appears to be associated not with the instant application (i.e., Application No. 11/011,247 (Case No. AUS920040724US1) but rather with Application No. 11/462,742 (Case No. AUS920050724US1). (Emphasis supplied.)

Thus, Petitioner lacks herein: a proper showing as set forth in guidance in the Commentary at MPEP §711.03(c), and discussed above.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A.Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B.Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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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 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2`shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

And the regulation requires that relief be sought within two (2) months of the act complained of.

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed make the showing required.

CONCLUSION

Accordingly, the petition is **dismissed**.

ALTERNATIVE VENUE

If Petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, Petitioner should consider filing a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. §41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. §41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

The filing of a petition under 37 C.F.R. §1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. §1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if Petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. §1.137(b).

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

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

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

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

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

5

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,247	12/14/2004	William Boyd Brown	AUS920040724US1	5470

35525 7590 06/22/2007
IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER
CHEUNG, HUBERT G

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
06/22/2007	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)
	11/011,247	BROWN ET AL.
	Examiner	Art Unit
	Hubert Cheung	2169

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on 29 May 2007.

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

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

Disposition of Claims

4)☒ Claim(s) 1-5 and 10-17 is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-5 and 10-17 is/are rejected.

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

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

Application Papers

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

10)☒ The drawing(s) filed on 14 December 2004 is/are: a)☐ accepted or b)☒ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

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

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date 12/14/2004.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is responsive to application 11/011,247 filed on 12/14/2004. Claims 1-5 and 10-17 are pending. Claims 6-9 and 18 have been cancelled by the applicants.

Claims 6-9 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05/29/2007.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 12/14/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract is objected because it is more than 150 words in length (i.e., 154 words). Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

The specification is objected to because of the following informalities:

- Page 11, line 3, recites, "in a data processing system, and," should be corrected to recite, "in a data processing systems, and."

Appropriate correction is required.

The use of the trademarks, MICROSOFT (i.e., page 3, line 12), ESERVER (i.e., page 12, line 19) and JAVA (i.e., page 13, line 27), has been noted in this application.

They should be capitalized wherever they appear and be accompanied by the generic terminology.

> Trademarks should be identified by capitalizing each letter of the mark (in the case of word or letter marks) or otherwise indicating the description of the mark (in the case of marks in the form of a symbol or device or other nontextual form). MPEP 608.01(v).

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In claim 17, the "computer-readable medium," in accordance with applicants' specification, may be a radio frequency or a light wave transmission (i.e., page 21, line 26 to page 22, line 2).

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, *per se*, and as such are nonstatutory natural phenomena. O'Reilly v. Morse, 56 U.S. (15 How.) 62, 112-14 (1853). Moreover, it does not appear that a claim

reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

First, a claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material.

"The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." Corning v. Burden, 56 U.S. (15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices which perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

A "composition of matter" "covers all compositions of two or more substances and includes all composite articles, whether they be results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids." Shell Development Co. v. Watson, 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), aff'd, 252 F.2d 861, 116 USPQ 428 (D.C. Cir. 1958). A claimed signal is not matter, but a form of energy, and therefore is not a composition of matter.

The U.S. Supreme Court has read the term "manufacture" in accordance with its dictionary definition to mean "the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." Diamond v. Chakrabarty, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting American Fruit Growers, Inc. v. Brogdex Co., 283 U.S. 1, 11, 8 USPQ 131, 133 (1931), which, in turn, quotes the Century Dictionary). Other courts have applied similar definitions. See American Disappearing Bed Co. v. Arnaelsteen, 182 F. 324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911). These definitions require physical substance, which a claimed signal does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change. Lorillard v. Pons, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in American Fruit Growers when it passed the 1952 Patent Act.

A manufacture is also defined as the residual class of product. 1 Chisum, § 1.02[3] (citing W. Robinson, The Law of Patents for Useful Inventions 270 (1890)). A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

8. Claim 1-5 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown, et al., US 2003/0177107 A1, filed on March 14, 2002 and published on September 18, 2003 (hereinafter "Brown").

Claims 1, 10, 15 and 17

With respect to claims 1, 10, 15 and 17, Brown discloses **a system comprising a server data processing system** (Brown, paragraph [0021]; and Brown, Fig. 1, (100)) **and a server file system maintained by the server data processing system** (Brown, paragraph [0021], where a file data processing system must have a server file system), **wherein the server data processing system comprises a server in-memory representation of the server file system** (Brown, paragraph [0042], where the representation of the server file system is root directory (500) and dirA (510) and where "in-memory" is interpreted by the examiner to mean being stored in any kind of computer storage medium [i.e., buffer, cache, RAM, hard drive, etc.]), a method comprising steps of:

exporting a portion of the server file system (Brown, paragraph [0042], where when the file system is not mounted, the exported portion of the server file system is the root directory (500) and dirA (510); Brown, paragraphs [0045] and [0046], where a part of the exported server file system is the extended attribute associated with dir1; and Brown, Fig. 5);

generating a client in-memory representation of the exported file system, the client in-memory representation including a pseudo-node for a non-exported portion of the server file system (Brown, paragraphs [0043]-[0046], where the extended attribute file that is sent to the clients is the pseudo-node); and

associating the server in-memory representation with the client in-memory representation, wherein at least one attribute for the non-exported portion of the server file system is linked to the pseudo-node of the client in-memory representation (Brown, paragraph [0046], where the device names are the attributes linked to extended attribute file [i.e., the pseudo-node]).

Claims 2 and 11

With respect to claims 2 and 11, Brown further discloses **wherein the non-exported portion is a non-exported directory** (Brown, paragraph [0042], where root directory (500) and dirA (510) are directories; and Brown, Fig. 5, (500) and (510)).

Claims 3 and 12

With respect to claims 3 and 12, Brown further discloses **wherein the non-exported portion is a plurality of non-exported directories, and wherein the client in-memory representation includes a plurality of pseudo-nodes, with each one of the plurality of pseudo-nodes being associated with a corresponding non-exported directory of the plurality of non-exported directories** (Brown, paragraph [0042], where directory (500) and dirA (510) are two directories [i.e., plurality of non-exported directories]; Brown, paragraph [0043], where multiple file systems and multiple extended attributes [i.e., pseudo-nodes] are discussed that can be mounted; and Brown, Fig. 5).

Claims 4, 13 and 16

With respect to claims 4, 13 and 16, Brown further discloses **wherein the system further comprises a client data processing system** (Brown, paragraph [0026], where data processing system (300) is a client computer; and Brown, Fig. 3) and **wherein the portion of the server file system is exported to the client data processing system** (Brown, paragraphs [0031] and [0042]), and **further comprising a step of providing the at least one attribute to the client data processing system responsive to a filesystem command by the client data processing system** (Brown, paragraph [0049]).

Claims 5 and 14

With respect to claims 5 and 14, Brown further discloses **wherein the filesystem command initiates an action of lookup directory or read directory** (Brown, paragraph [0037]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hubert Cheung whose telephone number is 571-270-1396. The examiner can normally be reached on M-R 7:30A - 5:00P EST; alt. F 7:30A - 4:00P EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

Examiner: Hubert Cheung HC 6/12/07
Date: June 12, 2007

CHRISTIAN CHACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 11/011,247	:	DECISION
Filed: 14 December, 2004	:	
Attorney Docket No. AUS920040724US1	:	

This is a decision on the petition, filed on 8 August, 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 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment." (If Petitioner cannot satisfy the evidentiary requirements necessary for a petition to withdraw the holding of abandonment to be granted, Petitioner may alternatively file a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

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

A proper showing requires at the very minimum:

- A statement from practitioner stating that the Office action was not received by the practitioner;

- A statement from the practitioner attesting to the fact that a search of the file jacket and docket records for the application indicates that the Office action was not received with a copy of those docket records; and

- A **brief** statement of the calendaring process and **a copy of the due-date (calendar) docket** record(s) where the nonreceived Office action would have been scheduled for reply had it been received must be attached to and referenced in the practitioner's statement.

Alternatively:

- A statement from practitioner stating that the reply was timely submitted by the practitioner;

- Copies of all papers submitted as and/or in support of that reply, with/and a copy of the date-stamped receipt card, Office FAX receipt acknowledgement (not simply Petitioner's FAX transmittal), or EFS receipt acknowledgment from the Office, along with practitioner's attestation as to the correctness/completeness of his/her records.

The showing(s) must include that of the person(s) with first-hand knowledge and an acknowledgment by the Petitioner that he/she has reviewed that information in compliance with his/her duty of candor to the Office.

BACKGROUND

The record reflects as follows:

This application was held abandoned for Petitioner's failure to reply timely and properly to the non-final Office action mailed on 22 June, 2007, (copy enclosed) with reply due absent extension of time on or before 22 September, 2007.

The application went abandoned by operation of law after midnight 22 September, 2007.

The Office mailed the Notice of Abandonment on 3 April, 2008.

On 7 April, 2008, Petitioner filed the instant petition, with, *inter alia*, an averment that the non-final Office action was not received, however:

- Petitioner failed to comply with the showing requirements (statement and documents) set forth in brief above, and set out in detail below with the provisions of MPEP §711.03(c); and

- At least one of the documents submitted by Petitioner appears to be associated not with the instant application (i.e., Application No. 11/011,247 (Case No. AUS920040724US1) but rather with Application No. 11/462,742 (Case No. AUS920050724US1). (Emphasis supplied.);

and so the petition was dismissed on 20 December, 2008.

Petitioner filed the instant petition, but failed to include therewith **a copy of the due-date docket/calendar for all replies due on the reply due date** discussed above.

Thus, Petitioner lacks herein: a proper showing as set forth in guidance in the Commentary at MPEP §711.03(c), and discussed above.

The guidance in the Commentary at MPEP §711.03(c) sets forth the showing requirements for overcoming the presumptions herein.[1]

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[1] The guidance in the Commentary at MPEP §711.03(c) as to non-received Office actions and timely filed replies is as follows:

A. Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action

In *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971), the court decided that the Office should mail a new Notice of Allowance in view of the evidence presented in support of the contention that the applicant's representative did not receive the original Notice of Allowance. Under the reasoning of *Delgar*, an allegation that an Office action was never received may be considered in a petition to withdraw the holding of abandonment. If adequately supported, the Office may grant the petition to withdraw the holding of abandonment and remail the Office action. That is, the reasoning of *Delgar* is applicable regardless of whether an application is held abandoned for failure to timely pay the issue fee (35 U.S.C. 151) or for failure to prosecute (35 U.S.C. 133).

To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner **>describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail (e.g., if the practitioner has a history of not receiving Office actions).

Evidence of nonreceipt of an Office communication or action (e.g., Notice of Abandonment or an advisory action) other than that action to which reply was required to avoid abandonment would not warrant withdrawal of the holding of abandonment. Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment. See *Lorenz v. Finkl*, 333 F.2d 885, 889-90, 142 USPQ 26, 29-30 (CCPA 1964); *Krahn v. Commissioner*, 15 USPQ2d 1823, 1824 (E.D. Va 1990); *In re Application of Fischer*, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

B. Petition To Withdraw Holding of Abandonment Based on Evidence That a Reply Was Timely Mailed or Filed

37 CFR 1.10(c) through 1.10(e) and 1.10(g) set forth procedures for petitioning the Director of the USPTO to accord a filing date to correspondence as of the date of deposit of the correspondence as "Express Mail." A petition to withdraw the holding of abandonment relying upon a timely reply placed in "Express Mail" must include an appropriate petition under 37 CFR 1.10(c), (d), (e), or (g) (see MPEP § 513). When a paper is shown to have been mailed to the Office using the "Express Mail" procedures, the paper must be entered in PALM with the "Express Mail" date.

Similarly, applicants may establish that a reply was filed with a postcard receipt that properly identifies the reply and provides *prima facie* evidence that the reply was timely filed. See MPEP § 503. For example, if the application has been held abandoned for failure to file a reply to a first Office action, and applicant has a postcard receipt showing that an amendment was timely filed in response to the Office action, then the holding of abandonment should be withdrawn upon the filing of a petition to withdraw the holding of abandonment. When the reply is shown to

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

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

(*See* MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," alternative "A Reply Was Timely Filed"; see also: "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).)

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[3] (See, also, the commentary at MPEP §711.03(c)(I)(A) and (B).)

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have been timely filed based on a postcard receipt, the reply must be entered into PALM using the date of receipt of the reply as shown on the post card receipt.

Where a certificate of mailing under 37 CFR 1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 CFR 1.8(b) and MPEP § 512. As stated in 37 CFR 1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is 2 shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 CFR 1.8).

37 CFR 1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 CFR 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.

C. Treatment of Untimely Petition To Withdraw Holding of Abandonment

37 CFR 1.181(f) provides that, *inter alia*, except as otherwise provided, any petition not filed within 2 months from the action complained of may be dismissed as untimely. Therefore, any petition (under 37 CFR 1.181) to withdraw the holding of abandonment not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. 37 CFR 1.181(f).

Rather than dismiss an untimely petition to withdraw the holding of abandonment under 37 CFR 1.181(f), the Office may require a terminal disclaimer as a condition of granting an untimely petition to withdraw the holding of abandonment.

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

And the regulation requires that relief be sought within two (2) months of the act complained of.

The petition fails to satisfy all of the above-stated requirements in that Petitioner failed make the showing required.

CONCLUSION

Accordingly, the petition is **dismissed**.

ALTERNATIVE VENUE

If Petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, Petitioner should consider filing a petition under 37 C.F.R. §1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. §41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. §41(a)(7) has been implemented in 37 C.F.R. §1.137(b). A petition alleging "unintentional" delay under 37 C.F.R. §1.137(b) must be accompanied by the petition fee, and Petitioner always should refer to the Office website (http://www.uspto.gov/main/howtofees.htm) to ensure submission of the proper fees. (A specific fee is not stated here because fee amounts change and there is no way to know when Petitioner will submit materials for filing.))

The filing of a petition under 37 C.F.R. §1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 C.F.R. §1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if Petitioner intentionally delayed the filing of a petition for revival under 37 C.F.R. §1.137(b).

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Brown, et al.	:	
Application No. 11/011,247	:	DECISION
Filed: 14 December, 2004	:	
Attorney Docket No. AUS920040724US1	:	

This is a decision on the petition, filed on 11 November, 2008, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners 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:

This application was held abandoned for Petitioner's failure to reply timely and properly to the non-final Office action mailed on 22 June, 2007, (copy enclosed) with reply due absent extension of time on or before 22 September, 2007.

The application went abandoned by operation of law after midnight 22 September, 2007.

The Office mailed the Notice of Abandonment on 3 April, 2008.

On 7 April, 2008, Petitioner filed a petition, with, *inter alia*, an averment that the non-final Office action was not received, however: Petitioner failed to comply with the showing requirements (statement and documents) of MPEP §711.03(c)(I); and at least one of the

documents submitted by Petitioner appearedo be associated not with the instant application (i.e., Application No. 11/011,247 (Case No. AUS920040724US1); and so the petition was dismissed on 20 December, 2008.

Petitioner filed a petition on 8 August, 2008, but failed to include therewith a copy of the due-date docket/calendar for all replies due on the reply due date (*see*: 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)—and the petition was dismissed on 30 September, 2008.

On 10 November, 2008, Petitioner filed the instant petition which, when considered in concert with Petitioner's earlier submissions provide the petition, the statements of non-receipt and search, description of the docketing/calendaring system, and copies of application docket and master due-date docket—in the effort to satisfy the showing requirements as set forth in guidance in the Commentary at MPEP §711.03(c)(I).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

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

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter.

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

Allegations as to the Request to
Withdraw the Holding of Abandonment

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

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 3 April, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2168 for further processing (including re-mailing of the Office action in question) in due course.

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

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.))

[4] The regulations at 37 C.F.R. §1.2 provide:

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

5

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,247	12/14/2004	William Boyd Brown	AUS920040724US1	5470

35525 7590 06/22/2007
IBM CORP (YA)
C/O YEE & ASSOCIATES PC
P.O. BOX 802333
DALLAS, TX 75380

EXAMINER
CHEUNG, HUBERT G

ART UNIT	PAPER NUMBER
2169	

MAIL DATE	DELIVERY MODE
06/22/2007	PAPER

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

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

Office Action Summary	Application No.	Applicant(s)	
	11/011,247	BROWN ET AL.	
	Examiner	Art Unit	
	Hubert Cheung	2169	

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

Period for Reply

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

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

Status

1)☒ Responsive to communication(s) filed on *29 May 2007*.

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

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

Disposition of Claims

4)☒ Claim(s) *1-5 and 10-17* is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 10-17* is/are rejected.

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

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

Application Papers

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

10)☒ The drawing(s) filed on *14 December 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

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

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

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

Priority under 35 U.S.C. § 119

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

a)☐ All b)☐ Some * c)☐ None of:

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

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

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

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

Attachment(s)

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

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

3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *12/14/2004*.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1. This Office action is responsive to application 11/011,247 filed on 12/14/2004. Claims 1-5 and 10-17 are pending. Claims 6-9 and 18 have been cancelled by the applicants.

Claims 6-9 and 18 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected inventions, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 05/29/2007.

Information Disclosure Statement

2. The information disclosure statement (IDS) submitted on 12/14/2004 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

3. Figures 1-3 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The abstract is objected because it is more than 150 words in length (i.e., 154 words). Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicants' cooperation is requested in correcting any errors of which applicants may become aware in the specification.

The specification is objected to because of the following informalities:

- Page 11, line 3, recites, "in a data processing system, and," should be corrected to recite, "in a data processing systems, and."

Appropriate correction is required.

The use of the trademarks, MICROSOFT (i.e., page 3, line 12), ESERVER (i.e., page 12, line 19) and JAVA (i.e., page 13, line 27), has been noted in this application.

They should be capitalized wherever they appear and be accompanied by the generic terminology.

> Trademarks should be identified by capitalizing each letter of the mark (in the case of word or letter marks) or otherwise indicating the description of the mark (in the case of marks in the form of a symbol or device or other nontextual form). MPEP 608.01(v).

Although the use of trademarks is permissible in patent applications, the proprietary nature of the marks should be respected and every effort made to prevent their use in any manner which might adversely affect their validity as trademarks.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claim 17 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In claim 17, the "computer-readable medium," in accordance with applicants' specification, may be a radio frequency or a light wave transmission (i.e., page 21, line 26 to page 22, line 2).

Claims that recite nothing but the physical characteristics of a form of energy, such as a frequency, voltage, or the strength of a magnetic field, define energy or magnetism, *per se*, and as such are nonstatutory natural phenomena. O'Reilly v. Morse, 56 U.S. (15 How.) 62, 112-14 (1853). Moreover, it does not appear that a claim

reciting a signal encoded with functional descriptive material falls within any of the categories of patentable subject matter set forth in § 101.

First, a claimed signal is clearly not a "process" under § 101 because it is not a series of steps. The other three § 101 classes of machine, compositions of matter and manufactures "relate to structural entities and can be grouped as 'product' claims in order to contrast them with process claims." 1 D. Chisum, Patents § 1.02 (1994). The three product classes have traditionally required physical structure or material.

"The term machine includes every mechanical device or combination of mechanical device or combination of mechanical powers and devices to perform some function and produce a certain effect or result." Corning v. Burden, 56 U.S. (15 How.) 252, 267 (1854). A modern definition of machine would no doubt include electronic devices which perform functions. Indeed, devices such as flip-flops and computers are referred to in computer science as sequential machines. A claimed signal has no physical structure, does not itself perform any useful, concrete and tangible result and, thus, does not fit within the definition of a machine.

A "composition of matter" "covers all compositions of two or more substances and includes all composite articles, whether they be results of chemical union, or of mechanical mixture, or whether they be gases, fluids, powders or solids." Shell Development Co. v. Watson, 149 F. Supp. 279, 280, 113 USPQ 265, 266 (D.D.C. 1957), aff'd, 252 F.2d 861, 116 USPQ 428 (D.C. Cir. 1958). A claimed signal is not matter, but a form of energy, and therefore is not a composition of matter.

The U.S. Supreme Court has read the term "manufacture" in accordance with its dictionary definition to mean "the production of articles for use from raw or prepared materials by giving to these materials new forms, qualities, properties, or combinations, whether by hand-labor or by machinery." Diamond v. Chakrabarty, 447 U.S. 303, 308, 206 USPQ 193, 196-97 (1980) (quoting American Fruit Growers, Inc. v. Brogdex Co., 283 U.S. 1, 11, 8 USPQ 131, 133 (1931), which, in turn, quotes the Century Dictionary). Other courts have applied similar definitions. See American Disappearing Bed Co. v. Arnaelsteen, 182 F. 324, 325 (9th Cir. 1910), cert. denied, 220 U.S. 622 (1911). These definitions require physical substance, which a claimed signal does not have. Congress can be presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change. Lorillard v. Pons, 434 U.S. 575, 580 (1978). Thus, Congress must be presumed to have been aware of the interpretation of manufacture in American Fruit Growers when it passed the 1952 Patent Act.

A manufacture is also defined as the residual class of product. 1 Chisum, § 1.02[3] (citing W. Robinson, The Law of Patents for Useful Inventions 270 (1890)). A product is a tangible physical article or object, some form of matter, which a signal is not. That the other two product classes, machine and composition of matter, require physical matter is evidence that a manufacture was also intended to require physical matter. A signal, a form of energy, does not fall within either of the two definitions of manufacture. Thus, a signal does not fall within one of the four statutory classes of § 101.

Claim Rejections - 35 USC § 102

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

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent..

8. Claim 1-5 and 10-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Brown, et al., US 2003/0177107 A1, filed on March 14, 2002 and published on September 18, 2003 (hereinafter "Brown").

Claims 1, 10, 15 and 17

With respect to claims 1, 10, 15 and 17, Brown discloses **a system comprising a server data processing system** (Brown, paragraph [0021]; and Brown, Fig. 1, (100)) **and a server file system maintained by the server data processing system** (Brown, paragraph [0021], where a file data processing system must have a server file system), **wherein the server data processing system comprises a server in-memory representation of the server file system** (Brown, paragraph [0042], where the representation of the server file system is root directory (500) and dirA (510) and where "in-memory" is interpreted by the examiner to mean being stored in any kind of computer storage medium [i.e., buffer, cache, RAM, hard drive, etc.]), a method comprising steps of:

exporting a portion of the server file system (Brown, paragraph [0042], where when the file system is not mounted, the exported portion of the server file system is the root directory (500) and dirA (510); Brown, paragraphs [0045] and [0046], where a part of the exported server file system is the extended attribute associated with dir1; and Brown, Fig. 5);

generating a client in-memory representation of the exported file system, the client in-memory representation including a pseudo-node for a non-exported portion of the server file system (Brown, paragraphs [0043]-[0046], where the extended attribute file that is sent to the clients is the pseudo-node); and

associating the server in-memory representation with the client in-memory representation, wherein at least one attribute for the non-exported portion of the server file system is linked to the pseudo-node of the client in-memory representation (Brown, paragraph [0046], where the device names are the attributes linked to extended attribute file [i.e., the pseudo-node]).

Claims 2 and 11

With respect to claims 2 and 11, Brown further discloses **wherein the non-exported portion is a non-exported directory** (Brown, paragraph [0042], where root directory (500) and dirA (510) are directories; and Brown, Fig. 5, (500) and (510)).

Claims 3 and 12

With respect to claims 3 and 12, Brown further discloses **wherein the non-exported portion is a plurality of non-exported directories, and wherein the client in-memory representation includes a plurality of pseudo-nodes, with each one of the plurality of pseudo-nodes being associated with a corresponding non-exported directory of the plurality of non-exported directories** (Brown, paragraph [0042], where directory (500) and dirA (510) are two directories [i.e., plurality of non-exported directories]; Brown, paragraph [0043], where multiple file systems and multiple extended attributes [i.e., pseudo-nodes] are discussed that can be mounted; and Brown, Fig. 5).

Claims 4, 13 and 16

With respect to claims 4, 13 and 16, Brown further discloses **wherein the system further comprises a client data processing system** (Brown, paragraph [0026], where data processing system (300) is a client computer; and Brown, Fig. 3) and **wherein the portion of the server file system is exported to the client data processing system** (Brown, paragraphs [0031] and [0042]), and **further comprising a step of providing the at least one attribute to the client data processing system responsive to a filesystem command by the client data processing system** (Brown, paragraph [0049]).

Claims 5 and 14

With respect to claims 5 and 14, Brown further discloses **wherein the filesystem command initiates an action of lookup directory or read directory** (Brown, paragraph [0037]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hubert Cheung whose telephone number is 571-270-1396. The examiner can normally be reached on M-R 7:30A - 5:00P EST; alt. F 7:30A - 4:00P EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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

Examiner: Hubert Cheung HC 6/18/07
Date: June 12, 2007

CHRISTIAN CHACE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/1/09

Patent No. :7321144
Inventor(s) :Chang-Woo OH et al.
Issued : 1/22/2008
Title : SEMICONDUCTOR DEVICE EMPLOYING BURIED INSULATING LAYER AND METHOD OF FABRICATING THE SAME
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals item [56]is printed in accordance with the record and please show evidence of a 1449 or 892 document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MARGER JOHNSON & McCollom P.C.
210 SW Morrison Street Suite 400
Portland, OR 97204

HR/MD

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
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Washington, DC 20231

5/1/09

Patent No. :7321144
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Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

MARGER JOHNSON & McCollom P.C.
210 SW Morrison Street Suite 400
Portland, OR 97204

HR/MD

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Miller and Chishti	:	
Application No. 11/011,271	:	DECISION ACCORDING STATUS
Filed: 13 December, 2004	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 018563-003940US	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 13 July, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Muhammad Chishti, has refused to review the sign the declaration after having been sent a copy of the application via his counsel. Specifically, petitioners have shown that a copy of the application papers were sent to the non-signing inventor's counsel, but that the non-signing inventor refused, via his attorney to sign the declaration naming him as a joint inventor along with Ross Miller.

In accepting this petition, the Office is construing the petition to mean that a copy of the application (specification including the claims, drawings, if any, and the declaration), was sent to Mr. Chishti's counsel. Petitioners **must** inform the Office if this is an incorrect interpretation.

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 application is being referred to Technology Center Art Unit 3732 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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 Aug-05

Muhammad Chishti
910 15th Street NW
Apt 910
Washington DC 20005

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AUG 17 2005

OFFICE OF PETITIONS

In re Application of
Miller et al.
Application No. 11/011,271
Filed: 13 December, 2004
For: METHODS FOR CORRECTING DEVIATIONS IN PREPLANNED TOOTH REARRANGEMENTS

Dear Mr. Chishti:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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Stephen E. Feldman, P.C.
12 East 41st Street
New York NY 10017

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JAN 22 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of
Rancan
Application No.11/011,281
Filed: December 13, 2004
Title of Invention: Omega Type Ornamental Chain and Process For Making The Chain

This is a decision on the petition under 37 CFR §1.137(b), filed November 13, 2006.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of April 7, 2006. The final Office Action set a three (3) month shortened statutory period for reply. An amendment after final Office Action and a three month extension of time were filed on October 10, 2006 (certificate of mailing October 4, 2006). An Advisory Action mailed on October 27, 2006 informed petitioner the application was not placed in condition for allowance. Accordingly, this application became abandoned on October 8, 2006. A Notice of Abandonment was mailed on October 27, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The Request for Continued Examination (RCE), and previously submitted amendment will be forwarded to Technology Center 3700 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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118 NORTH TIOGA ST
ITHACA NY 14850

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MAR 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Robert Michael Lucci	:	
Application No.: 11/011288	:	DECISION ON
Filing or 371(c) Date: 12/14/2004	:	PETITION
Attorney Docket Number: RCAL-61	:	

This is a decision in response to the "Petition to Revive Patent Unavoidably Abandoned Application Under 37 CFR 1.137(a)," filed February 26, 2008. The petition treated as a petition to withdraw the holding of abandonment based upon failure to receive an Office action under 37 CFR 1.181.

The petition is **granted.**

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed January 26, 2007. The Notice set a non-extendable three (3) month period for reply. No reply having been received, the application became abandoned on April 27, 2007 10, 2006. A Notice of Abandonment was mailed February 14, 2008.

With the present petition, Applicant has demonstrated non-receipt of the Notice of Allowance and Issue Fee Due and Notice of Allowability by a preponderance of the evidence[1].

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

No petition fee has been charged and none is due.

The application will be referred to Publishing Division for Processing into a patent.

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

Derek L. Woods
Attorney
Office of Petitions

[1] Office records reveal that the Notices were returned to this Office by the USPS undelivered.

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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MAY 11 2009

OFFICE OF PETITIONS

In re Application of

Thomas Primiano

Application No. 11/011,299

Filed: December 14, 2004

Attorney Docket No. 04-101-F

DECISION ON PETITION

This is a decision on the "Petition to Correct Filing Date and Priority Claim" filed April 13, 2009. The petition will be considered under 37 CFR 1.10 and 37 CFR 1.183[1].

The petition under 37 CFR 1.10 is **dismissed.**

The petition under 37 CFR 1.183 to waive the requirements of 37 CFR 1.10 is also **dismissed**.

The instant petition was filed to correct what petitioner asserts is an incorrect filing date accorded the subject application. The application was accorded an official filing date of December 14, 2004; petitioner maintains that the filing date accorded the application should be changed to December 13, 2004. In support, petitioner states that application was prepared for mailing on December 13, 2004, and delivered to Oce Business Solutions for deposit with the United States Postal Service (USPS), Express Mail Service by the last pick-up on December 13, 2004. Despite petitioner's business operating procedures in place for delivery and deposit of mail, petitioner maintains that an employee of Oce Business Solutions took the package containing the subject application home with him and did not deposit the package with the USPS Express Mail Service until December 14, 2004. Notwithstanding, petitioner requests that the USPTO accord the application a filing date of December 13, 2004, as this was the date applicant intended for the application to be deposited with the USPS, Express Mail Service.

TREATMENT UNDER 37 CFR 1.10

Section 1.10(a) of the Title 37 of the Code of Federal Regulations states that:

[1] It is noted that 37 CFR 1.53(b) provides that the filing date assigned to a nonprovisional application is date a specification containing a description and claim and any necessary drawings are filed in the U.S. Patent and Trademark Office (USPTO). It is further noted that 37 CFR 1.6 provides that correspondence filed in accordance with § 1.10 will be stamped with the date of deposit as "Express Mail" with the United States Postal Service. This application was filed in accordance with 37 CFR 1.10. As petitioner does not dispute the application's qualifications under 37 CFR 1.53(b), the petition will be considered under 37 CFR 1.10.

> (a)(1) Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" Service of the United States Postal Service (USPS) will be considered filed with the USPTP on the date of deposit with the USPS.
> (2) The date of deposit with the USPS is shown by the "date-in" on the Express Mail" label or official USPS notation. If the USPS deposit cannot be determined, the correspondence will be accorded the USPTO receipt date as of the filing date. See § 1.6(a).

Where there are irregularities in the process set forth by 37 CFR 1.10(a), whether by the applicant, the USPS, or the USPTO, 37 CFR 1.10(c)-(i) are meant to address the issues. It is important to note that 37 CFR 1.10(c)-(i) do not, however, specifically provide for circumstances such as are presented by the instant petition. Further to this point, 37 CFR 1.10(c) provides for situations where there is a discrepancy between the date-in on the Express Mail receipt and the filing date accorded the application; 37 CFR 1.10(d) provides for a situation where the USPS incorrectly enters the date-in on the Express Mail receipt; 37 CFR 1.10(e) provides for a situation where an application is deposited with the USPS Express Mail Service and never received by the USPTO; 37 CFR 1.10(g) provides for a situation where correspondence deposited with the USPS Express Mail Service is returned due to a postal interruption or emergency; 37 CFR 1.10(h) provides for a situation where correspondence deposited with the USPS Express Mail Service is refused due to postal interruption or emergency, and 37 CFR 1.10(i) provides for situations where correspondence meant to be deposited with the USPS Express Mail Service is not deposited due to a Director designated postal interruption or emergency. It is evident that neither the spirit or intent of 37 CFR 1.10 is meant to address situations, such as the one present in the petition, where applicant intends for an application to deposited with the USPS Express Mail Service on a particular day, but the application is not deposited because of a failure on the part of the applicant's agent(s). Petitioner has not established that it is in any way appropriate to grant petitioner relief under 37 CFR 1.10(c), (d), (e), (g), (h), or (i). The petition is dismissed, accordingly.

TREATMENT UNDER 37 CFR 1.183

It is further noted that petitioner requests that the requirements of 37 CFR 1.10 should be waived pursuant to 37 CFR 1.183 so as to allow the application to be accorded a filing date of December 13, 2004, notwithstanding the fact that the application was not deposited with the USPS, Express Mail Service until December 14, 2004. Section 513 of the Manual of Patent Examining Procedure provides, in pertinent, part that:

> [a] party's inadvertent failure to comply with the requirements of a rule is not deemed to be an extraordinary situation that would warrant waiver of a rule under 37 CFR 1.183, 2.146(a)(5) or 2.148, nor is such an inadvertent omission considered "unavoidable," within the meaning of 15 U.S.C. 1062(b), 35 U.S.C. 133, 37 CFR 1.137(a) or 37 CFR 2.66(a). See *Honigsbaum v. Lehman*, 903 F. Supp. 8, 37 USPQ2d 1799 (D.D.C. 1995) (Commissioner did not abuse his discretion in refusing to waive requirements of 37 CFR 1.10(c) in order to grant filing date to patent application, where applicant failed to produce "Express Mail" customer receipt or any other evidence that application was actually deposited with USPS as "Express Mail."), *aff'd without opinion*, 95 F.3d 1166 (Fed. Cir. 1996); *Nitto Chemical Industry. Co., Ltd. v. Comer*, 39 USPQ2d 1778, 1782 (D.D.C. 1994) (Commissioner's refusal to waive requirements of 37 CFR 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 CFR 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 CFR 1.183.); *Vincent v. Mossinghoff*, 230 USPQ 621 (D.D.C. 1985) (misunderstanding of 37 CFR 1.8 not unavoidable delay in responding to Office Action); *Gustafson v. Strange*, 227 USPQ 174 (Comm'r Pat. 1985) (counsel's

unawareness of 37 CFR 1.8 not extraordinary situation warranting waiver of a rule); *In re Chicago Historical Antique Automobile Museum, Inc.*, 197 USPQ 289 (Comm'r Pat. 1978) (since certificate of mailing procedure under 37 CFR 1.8 was available to petitioner, lateness due to mail delay not deemed to be extraordinary situation).

Accordingly, waiver of the requirements of 37 CFR 1.10 pursuant to 37 CFR 1.183 is not appropriate as petitioner's, or petitioner's agent's, inadvertent failure to comply with the requirements of the rule is not an extraordinary situation that would warrant waiver of a rule. The above-cited section of the MPEP also demonstrates that it is not arbitrary or capricious for the Commissioner to refuse to waive the requirements of 37 CFR 1.10 to accord an application a particular filing date in order for the application to have copendecy with prior-filed applications. Accordingly, petitioner's argument that the rules should be waived to allow the subject application to have filing date of December 13, 2004, so as to have copendency with provisional application 60/528,929, filed December 11, 2003, is not persuasive.

As per 37 CFR 1.10(a), the application was properly accorded a filing date of December 14, 2004, as this was the date the application was, apparently, deposited with the United State Postal Service, Express Mail Service[2].

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[2] The petition was not accompanied by a copy of the USPS Express Mail Receipt showing a date-in of December 14, 2004, however; December 14, 2004 is assumed to be the date-in as it is the filing date accorded the application and the date of actual deposit as indicated by petitioner.

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

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

JAN 03 2007

In re Application of: CANCIAN Serial No.: 11/011,305 Filed: December 14, 2004 Title: RETRACTABLE SHOWER SUPPORT	:	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 October 23, 2006 to make the above-identified application special for accelerated examination procedure under 37 C.F.R. § 1.102(d).

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

REGULATION AND PRACTICE

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Change to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a);
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;
4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.
5. The petition must be filed with the application.

The application as filed is not eligible for the accelerated examination under 37 C.F.R. § 1.102(d) because the petition was not filed with the application. As noted in the policy statement referenced above, any petition to make special filed on or after the effective date must meet the new requirements set forth in the 71 Fed. Reg. 36323 notice. Applications filed before the effective date will not be eligible for the revised accelerated examination program. The

effective date of the change in practice was August 25, 2006. Thus the instant petition must be reviewed under the revised practice and the instant application is ineligible.

The petition appears on its face to have been filed without recognition of the August 25, 2006 policy change to the petition to make special program. The changes to the program are substantial. A copy of Federal Register on June 26, 2006 (71 Fed. Reg. 36323) is being attached to the mailed decision for petitioner's review. Further guidance may be found at www.USPTO.gov under the accelerated examination link.

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 J. Harrison, TC 3700 Special Program Examiner, at (571) 272-4449.

J. Harrison
Special Program Examiner
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

Mail Date: 04/20/2010

Applicant	: Seungkyu Daniel Kwak	: DECISION ON REQUEST FOR
Patent Number	: 7655044	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,330	: 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 **1254** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

JUL 13 2005

In re Application of Alex Cooper Serial No. 11/011,339 Filed: December 14, 2004 For: POLISHING PAD AND METHOD OF MAKING THE SAME	DECISION ON PETITION TO MAKE SPECIAL

Applicant's petition, filed April 2, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

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

PETITION GRANTED.

Frederick R. Schmidt, Director
Technology Center 3700

Ilya Zborovsky
6 Schoolhouse Way
Dix Hills, NY 11746

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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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 104/3
EAST HANOVER, NJ 07936-1080

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JUL 25 2007

OFFICE OF PETITIONS

ON PETITION

In re Application of	:	
John Robert Mansfield Dales	:	
Application No. 11/011,352	:	
Filed: December 14, 2004	:	
Attorney Docket No. PI/4-31824C/SKB 920	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 2, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed April 17, 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 July 18, 2006.

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

This matter is being referred to Technology Center AU 1624 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
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www.uspto.gov

MACMILLAN, SOBANSKI & TODD, LLC
ONE MARITIME PLAZA-FIFTH FLOOR
720 WATER STREET
TOLEDO, OH 43604

Mail Date: 04/21/2010

Applicant	: Riad Ghabra	: DECISION ON REQUEST FOR
Patent Number	: 7580696	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,364	: 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 **1068** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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R. MICHAEL WEST LAW OFFICES OF
R. MICHAEL WEST, A PROFESSIONAL CORPORATION
455 CAPITOL MALL; SUITE 405
SACRAMENTO CA 95814-4603

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JAN 3 1 2007

OFFICE OF PETITIONS

In re Application of
Ponzo
Application No. 11/011,368
Filed: December 13, 2004
Attorney Docket No. 10812

Title: Method of Construction Using Serpentine Panels

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed September 11, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice of Omitted Items which was mailed on October 6, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on December 7, 2005. A Notice of Abandonment was mailed on July 20, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

This application is being forwarded to the Office of Initial Patent Examination for further processing of the application.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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R. MICHAEL WEST
LAW OFFICES OF R. MICHAEL WEST
1922 21ST STREET
SACRAMENTO CA 95811

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JUN 06 2008

OFFICE OF PETITIONS

In re Application of

PONZO, Jerry
Application No. 11/011,368
Filed: December 13, 2004
Attorney Docket No. **10812**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 25, 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 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 Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **JERRY PONZO**
4098 CINCINNATI AVENUE
ROCKLIN, CA 95765

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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R. MICHAEL WEST
LAW OFFICES OF R. MICHAEL WEST
1922 21ST STREET
SACRAMENTO CA 95811

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JUL 16 2008

In re Application of	:	
PONZO, Jerry	:	
Application No. 11/011,368	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO WITHDRAW
Attorney Docket No. **10812**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 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 R. Michael West, the sole attorney of record. R. Michael West has been withdrawn as attorney or agent of record. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Jerry Ponzo 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: **JERRY PONZO**
4098 CINCINNATI AVENUE
ROCKLIN, CA 95765

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SUITE 300
CHARLOTTE, NC 28211

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OFFICE OF PETITIONS

In re Application of	:	
Lilly	:	
Application No. 11/011,391	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 4124	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 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, "we no longer represent this client", do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: RONALD L. HOFER
122 LINDBERGH LANE
MOORESVILLE, NC 28117

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OKAMOTO & BENEDICTO, LLP
P.O. BOX 641330
SAN JOSE CA 95164

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OFFICE OF PETITIONS

In re Application of	:	
Dileep Sivasankaran et al.	:	
Application No. 11/011,413	:	DECISION ON PETITION
Filed: December 13, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 10030.000400	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 12, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from the applicant Frank S. Madren declaring that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2616 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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Teresa J. Schultz
Alcon Research, Ltd.
Mail Code Q-148
6201 S. Freeway
Fort Worth TX 76134-2099

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JUN 26 2009

OFFICE OF PETITIONS

In re Application of John C. Lang	:	
Patent No. 7,267,830	:	
Issued: September 11, 2007	:	RESPONSE TO PETITION
Application No. 11/011,416	:	
Filed: December 14, 2004	:	

This is a response to the petition, filed March 18, 2009, which is treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **granted**.

A response to an Office Action mailed December 11, 2008 was filed in the above identified application on March 11, 2009. However, the above identified application was issued as US Patent no. 7,267,830 on September 11, 2007 and does not include an Office Action mailed December 11, 2008. An Office Action was mailed December 11, 2008 in related application 10/580,940. Petitioner alleges that the response to the Office Action mailed December 11, 2008 in the above identified application was erroneously filed, as it was intended for application 10/580,940, and requests that this response be removed from the file wrapper of the above identified application.

Upon a showing satisfactory to the Director, information, other than that forming part of the original disclosure, may be expunged from an application. Since the Office can determine that the erroneously filed papers were intended for a different application and the papers were already correctly filed in application serial no. 10/580,940, the papers will be removed as requested.

In a paper file, the unintentionally submitted exhibits could, but not necessarily would, have been physically removed from the file wrapper and returned to applicant; in the IFW realm the corresponding action(s) is to close the document and also remove such from the listing of "Public[ly available] Documents." It is agreed that it would be appropriate in this instance to close the response filed March 11, 2009 that was erroneously filed in the above identified application, and also remove such from the listing of publicly available documents for this Image File Wrapper (IFW).

As a condition of this favorable treatment petitioner is required to maintain the material in question during the enforceable life of any patent arising from this application, or any patent claiming benefit of this application.

Telephone inquiries concerning this communication should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO CA 92101

In re Application of	:	
Nova et al.	:	
Application No. 11/011,452	:	DECISION DISMISSING PETITION
Filed: December 14, 2004	:	
Title of Invention: Encoded Solid	:	
Supports for Biological Processing	:	
and Assays Using Same	:	
	:	

This is a decision on the "Petition Regarding Notice to Comply/Incomplete Application" filed July 11, 2005, which is being treated as a petition. The response requests in effect, that the Notice of Omitted Items (contained in the Notice to Comply) in a Nonprovisional Application ("Notice") mailed May 19, 2005, be withdrawn.

The petition is dismissed.

The application was filed on December 14, 2004. However, on May 19, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of December 14, 2004 but page 115 of the specification appeared to have been omitted.

In response, on July 11, 2005, applicant filed the present petition and a declaration. Additionally, applicants submitted a copy of page 115 of the specification (description and claims). Petitioner argues page 115 of the specification was submitted on December 14, 2004.

The evidence has been considered but it is not persuasive. A review of the official file confirms the Office did not receive page 115 of the specification on December 14, 2004.

The Office has a well established and well publicized practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice requires that any paper for which a receipt is desired be filed in the Office with

a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Although petitioner has provided a copy of a postcard receipt, the postcard will not serve as prima facie[1] evidence because it was not properly itemized and thus fails to establish the pages 56-59 of the specification were submitted upon filing.

> 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. MPEP 503.

The assertions of Attorney Eleanor Musick that page 115 of the specification was submitted on December 14, 2004 is not persuasive. An applicant alleging that a paper was filed in the PTO and later misplaced has the burden of proving the allegation by a preponderance of evidence.

The "Notice" mailed May 19, 2005, was correct in advising applicants that page 115 of the specification appeared to have been omitted. Therefore, the "Notice" was properly mailed.

---

[1] 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 office of all items listed thereon. See MPEP 503.

Petitioner also argues that the pages of the specification are included in application no. 08/945,053 which was incorporated by reference. Additional pages of the specification may be entered by the primary examiner without a petition so long as the pages contain no new matter. See MPEP 608.02(a).

Pages 115 of the specification will not be new matter if it is part of the disclosure of prior application no. 08/945,053 from which the present application incorporates by reference. As set forth in MPEP 201.06 (c)the incorporation by reference of a prior application permits an applicant to amend the application without the need for a petition. Accordingly, applicant may file an Amendment requesting the entry of page 115 of the specification.

The $400.00 petition fee will not be refunded because it was not necessitated by Office error.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 14, 2004, using the application papers received in the Office on that date.

Any inquiries related to 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
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P.O. Box 1450
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

COPY MAILED

FEB 02 2009

OFFICE OF PETITIONS

In re Application of :
Michael P. Nova et al :
Application No. 11/011,452 :
Filed: December 14, 2004 :
Attorney Docket No. 302US-C (111870-0117) :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed January 11, 2008 which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 12, 2008.

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

This matter is being referred to Technology Center AU 1631 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

MAILED

JUN 09 2009

OFFICE OF PETITIONS

In re Application of	:	
Park et al.	:	DECISION ON PETITION
Application No. 11/011,479	:	TO WITHDRAW
Filed: December 15, 2004	:	FROM RECORD
Attorney Docket No. 2557SI-001267/US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

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

A review of the file record indicates that on May 13, 2009 the power of attorney to Lee & Morse, P.C. was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston VA 20195

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Birch, Stewart, Kolasch & Birch, LLP
8110 Gatehouse Rd, Suite 500 East
P.O. Box 747
Falls Church VA 22040-0747

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DEC 1 8 2006
OFFICE OF PETITIONS

In re Application of
Collins, et al.
Application No. 11/011,502
Filed: December 13, 2004
Attorney Docket No. 1173-1039PUS4
For: PRODUCTION OF ATTENUATED RESPIRATORY SYNCYTIAL VIRUS VACCINES INVOLVING MODIFICATION OF M2 ORF2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed October 13, 2006, 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 April 14, 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 June 15, 2005. A Notice of Abandonment was mailed on February 8, 2006.

Applicants have submitted (1) a proper reply to the April 14, 2005 Notice in the form of various fees, an executed declaration and surcharge for its late filing, and an acceptable CFR disk copy of the sequence listing, (2) an acceptable statement of the unintentional nature of the delay in responding to the April 14, 2005 Notice, and (3) the petition fee.

Regarding the statement of delay: The statement of unintentional delay was not signed by a person who would have been in a position of knowing that the delay in filing a timely response was unintentional. In the event that practitioner has no knowledge that the delay was in fact unintentional, practitioner should make a reasonable inquiry to ascertain that, in fact, the delay was unintentional. If practitioner discovers that the delay was intentional, practitioner must so notify the Office.

The 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
Senior Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Frank Kilian	: DECISION ON REQUEST FOR
Patent Number	: 7617487	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,541	: 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 **1006** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SAP/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Frank Kilian
Patent Number : 7617487
Issue Date : 11/10/2009
Application No : 11/011,541
Filed : 12/13/2004

: 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 **1039** 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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Paper No.

HAHN LOESER & PARKS, LLP
ONE GOJO PLAZA
SUITE 300
AKRON OH 44311-1076

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MAR 16 2010

In re Patent No. 7,588,206	:	DECISION ON REQUEST
Hausman et al.	:	FOR
Issue Date: Sep. 15, 2009	:	RECONSIDERATION OF
Application No. 11/011,559	:	PATENT TERM ADJUSTMENT
Filed: Dec. 14, 2004	:	and
Atty Docket No.	:	NOTICE OF INTENT TO ISSUE
201187.00001	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 11, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted, by one hundred seventy-four (174) days. As further explained herein, the patent term adjustment is one hundred twenty-five (125) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one hundred twenty-five (125) 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 15, 2007, and ends on March 5, 2008, the day before the RCE was filed, and is 82 (not 83) days. See 35 U.S.C. 154(b)(1)(B)(i).

Patentees further assert that the 48 day period of reduction for applicant delay in connection with the filing on July 30, 2009, of a response to the Notice of Drawing Inconsistency With Specification mailed on July 24, 2009 should be removed. Specifically, patentees aver that they filed, on July 30, 2009, a timely response to the Notice mailed on July 24, 2009.

Patentees' argument is not persuasive.

In this regard, MPEP 2701 states, in pertinent part:

> 37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process. Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a "Notice of Allowance" is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner's reasons for allowance or a request to correct an error or omission in the "Notice of Allowance" or "Notice of Allowability;" and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4)

> late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations. 37 CFR 1.704(c)(10) provides that in such a case the period of adjustment set forth in 37 CFR 1.703 shall be reduced by the lesser of: (1) the number of days, if any, beginning on the date the amendment under 37 CFR 1.312 was filed and ending on the mailing date of the Office action or notice in response to the amendment under 37 CFR 1.312 or such other paper; or (2) four months.

An amendment under 37 CFR 1.312 and/or drawings are not among the types of papers which will not be considered a failure to engage in reasonable efforts to conclude processing or examination. Rather, the O.G. and the MPEP state that these are among the types of papers which are considered a failure to engage in reasonable efforts to conclude processing or examination. Moreover, 37 CFR 1.704(c)(10) does not distinguish between papers which were expressly requested by the Office and those which were not expressly requested. Patentees filed the amendment and the drawings on July 30, 2009, after the mailing of the notice of allowance on March 9, 2009. On September 15, 2009, 48 days after the amendment under 37 CFR 1.312 and the drawings were filed, the patent issued. Accordingly, the 48 day period of reduction is warranted and will not be removed.

The patent term adjustment is increased to 125 (204 + 82 - 161) 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. See 37 CFR 1.323(a)(4).

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 one hundred twenty-five **(125)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,588,206 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Hausman 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 43 days.

Delete the phrase "by 43 days" and insert – by 125 days--

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Paper No. None

INTERNATIONAL TRUCK INTELLECTUAL PROPERTY COMPANY,
4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

In re Application of	:	
Jeremy A. Lahr, Allyson K. Kreft, Marilyn R. Miars, Douglas R. Taylor, Steve E. Wagester, and Gregory D. Bell	:	DECISION ON PETITION UNDER 37 C.F.R. §1.47(a)
Application No. 11/011,564	:	
Filed: December 14, 2004	:	
Attorney Docket No. D5501	:	
Title: VEHICLE LIFT INTERLOCK	:	

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed May 6, 2005.

On December 14, 2004, the application was deposited, identifying Jeremy A. Lahr, Allyson K. Kreft, Marilyn R. Miars, Douglas R. Taylor, Steve E. Wagester, and Gregory D. Bell as joint inventors. A fully executed oath or declaration was not included on filing[2]. On February 3, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with a the basic filing fee and additional claim fees. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

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

2 Gregory Bell did not execute the declaration.

With the instant petition, Petitioner has also submitted the petition fee, the associated surcharge, copies of various letters, and a statement of facts. Petitioner has further included a one-month extension of time to make timely this response (the petition contains a certificate of mailing dated May 3, 2005).

Petitioner has met requirements (1) – (4) above.

Petitioner has indicated that a complete copy of the application was sent to the address listed on the declaration – 1310 Crescent Circle #1, Fort Wayne, IN, 46825. Petitioner then learned that the inventor had moved to 836 Kostner Ave, Matteson, IL, 60443, and a complete copy of the application was sent to the last-known address.

Petitioner has not included a copy of the declaration which contain the updated address for the non-signing joint inventor, as the declaration submitted on filing contains the incorrect Fort Wayne address for the non-signing inventor. Therefore, requirement (5) above has not been met as the declaration fails to comply with 37 C.F.R. §1.63(c)(1).

As such, the petition must be **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

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

Any renewed petition may be submitted by mail[3], hand-delivery[4], or facsimile[5].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (703) 872-9306 - please note this is a central facsimile number.

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Paper No. None

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4201 WINFIELD ROAD
P.O. BOX 1488
WARRENVILLE IL 60555

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Jeremy A. Lahr, Allyson K. Kreft, Marilyn R.	:	DECISION ON RENEWED
Miars, Douglas R. Taylor, Steve E. Wagester,	:	PETITION UNDER 37 C.F.R. §1.47(a)
and Gregory D. Bell	:	
Application No. 11/011,564	:	
Filed: December 14, 2004	:	
Attorney Docket No. D5501	:	
Title: VEHICLE LIFT INTERLOCK	:	

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed June 14, 2005.

On December 14, 2004, the application was deposited, identifying Jeremy A. Lahr, Allyson K. Kreft, Marilyn R. Miars, Douglas R. Taylor, Steve E. Wagester, and Gregory D. Bell as joint inventors. A fully executed oath or declaration was not included on filing[2]. On February 3, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with a the basic filing fee and additional claim fees. This Notice set a two-month period for reply.

1A grantable petition under 37 C.F.R. §1.47(a) requires:

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

2 Gregory Bell did not execute the declaration.

The original petition was submitted on May 6, 2005, and was dismissed via the mailing of a decision on June 8, 2005, for failure to include an acceptable declaration. With this renewed petition, a corrected declaration has been submitted.

As such, Petitioner has met each of the 5 requirements above.

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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United States Patent and Trademark Office
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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Sang-Woong Lee	: DECISION ON REQUEST FOR
Patent Number	: 7615421	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,585	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **787** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/17/2010

Applicant : Sang-Woong Lee
Patent Number : 7615421
Issue Date : 11/10/2009
Application No : 11/011,585
Filed : 12/15/2004

: 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 **892** 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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8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

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MAR 2 4 2008

In re Application of	:	
Jin-Wook Seo, et al.	:	
Application No. 11/011,586	:	DECISION GRANTING PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 61610464US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 24, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 21, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

April M. Wise
Petitions Examiner
Office of Petitions

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

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OCT 05 2005

BANNER & WITCOFF, LTD., ATTORNEYS FOR RESERVE
CLIENT NO. 3
1001 G STREET, N.W., 11TH FLOOR
WASHINGTON DC 20001-4597

In re Application of	:	
Robert Moskovich	:	
Serial No.: 11/011,605	:	DECISION ON PETITION
Filed: December 15, 2004	:	
For: Oral Care Implement	:	

This is in response to the petition applicant filed on June 8, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

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

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

Should there be any questions with regard to this letter please contact Frederick R. Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAR 23 2005

In re Application of Deshpande, Deepak Anant Serial Number: 11/011,627 Filed: December 14, 2004 For: ELECTRONIC DISINFECTION OF AIRBORNE POLLUTANTS	:	ap DECISION ON PETITION UNDER M.P.E.P.708.02 VIII

This is in response to the petition filed, January 11, 2005 requesting that the above-identified application be granted Special Status under Section 708.02 (VIII) of the MPEP and 37 CFR 1.102(d).

In view of the importance of developing technologies for countering terrorism and the desirability of prompt disclosure of advances made in these fields, the U.S. Patent and Trademark Office will accord "special" status to patent applications relating to counter-terrorism inventions.

International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism however it is not clear from applicants statement how this application counters terrorism by detecting and identifying biohazard air borne pollutants.

The petition has been considered and found not to comply with the requirements set forth under the above-noted section. Accordingly the petition is Denied.

William Krynski, Special Program Examiner
Technology Center 1700
Chemical and Materials Engineering

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DOBRUSIN & THENNISCH PC
29 W LAWRENCE ST
SUITE 210
PONTIAC MI 48342

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MAY 25 2005

OFFICE OF PETITIONS

In re Application of	:
Hugh Victor	: DECISION ON PETITION
Application No. 11/011,633	:
Filed: December 14, 2004	:
Attorney Docket No. 1180-001	:

This is a decision on the petition filed April 21, 2005, requesting that the application be accorded a filing date of December 14, 2004, with Figures 17 and 18 as part of the original disclosure.

On December 14, 2004, applicant filed the above-identified application. However, on March 1, 2005, the Office of Initial Patent Examination mailed a "Notice of Omitted Item(s) in a Nonprovisional Application," stating that the application had been accorded a filing date of December 14, 2004, and advising applicant that Figures 17 and 18 appeared to have been omitted.

In response, on April 21, 2005, applicant submitted the present petition, 2 sheets of drawings, including Figures 17 and 18, and paid the petition fee. Additionally, applicant submitted a copy of applicant's date-stamped postcard receipt acknowledging receipt of "Formal drawings (8 pages)" in the USPTO on December 14, 2004.

Upon review of the record, Figures 17 and 18, deposited on December 14, 2004, have not been located among the application papers. However, the evidence is convincing that the application papers deposited on December 14, 2004, included Figures 17 and 18, which were subsequently misplaced in the USPTO.

Therefore, the application, including Figures 17 and 18, was complete on filing and will be granted a filing date of December 14, 2004.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $400.00 petition fee will be credited to Deposit Account No. 50-1097.

The Office of Initial Patent Examination is directed **to accord the above-identified application a filing date of December 14, 2004,** using Figures 1-16 submitted on that date, and Figures 17-18 submitted on April 21, 2005, as part of the original disclosure.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Paper No.

FOLEY & LARDNER LLP
777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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MAR 01 2010

In re Application of	:	
Brouwer et al.	:	
Application No. 11/011,646	:	ON APPLICATION FOR
Filed: December 13, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 079811-0221	:	
Title: APPARATUS AND METHOD	:	
FOR PREPARING A BEVERAGE FIT	:	
FOR CONSUMPTION WITH A FINE-	:	
BUBBLE FROTH LAYER	:	

This is in response to the "REQUEST FOR RECONSIDERTAION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed December 7, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, four hundred, and eighty-five (1485) days, not seven hundred and one (701) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

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

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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777 EAST WISCONSIN AVENUE
MILWAUKEE WI 53202-5306

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JUN 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Brouwer, et al.	:	
Application No. 11/011,647	:	ON APPLICATION FOR
Filed: December 13, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. 097298-0126	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed January 28, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand four hundred fifty-five (1,455) days[1], not seven hundred sixty-three (763) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

[1] This calculation is based on a projected issuance date of July 20, 2010.

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

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee[2].

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.

---

[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.

Telephone inquiries specific to this decision should 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,703	12/14/2004	Donald Dominic Arnone	P/25-304	7573

7590 04/15/2009
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

EXAMINER
WILSON, JOHN J

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
04/15/2009	PAPER

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

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

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OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York NY 10036-8403

In re Application of:
ARNONE, DONALD DOMINIC et al
Serial No.: ~~11/011,703~~ 11/011,703
Filed: Dec. 14, 2004
Docket: P/25-304
Title: RADIATION PROBE AND DETECTING TOOTH DECAY

4/15/09

DECISION ON PETITION

This is a decision on the petition received on January 27, 2009, seeking to suspend Office action on the above-identified application for another period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The requisite $200.00 petition fee has been paid.

The petition is dismissed.

On January 27, 2009, petitioner filed the current petition to suspend office action in order to obtain a petition decision from the Petitions Office for the parent application, SN 10/031,784. The record shows that on March 20, 2009, the Petitions Office has issued a decision. Therefore, the second request of suspension of Office action is unnecessary and will not be granted. Moreover, the reason for a second six-month suspension of action is not convincing and could not justify further delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Petitioner must outline where he presently stands after the decision issued by the Petitions Office on March 20, 2009. Accordingly, petitioner has failed to establish good and sufficient reasons to further delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action in response to the applicant's amendment filed on July 28, 2008.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit for preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION DISMISSED.

Robert Olszewski, Director
Technology Center 3700

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,703	12/14/2004	Donald Dominic Arnone	P/25-304	7573

7590 04/15/2009
OSTROLENK, FABER, GERB & SOFFEN, LLP
1180 Avenue of the Americas
New York, NY 10036-8403

EXAMINER
WILSON, JOHN J

ART UNIT	PAPER NUMBER
3732	

MAIL DATE	DELIVERY MODE
04/15/2009	PAPER

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

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

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New York NY 10036-8403

4/15/09

In re Application of:
ARNONE, DONALD DOMINIC et al
Serial No.: ~~11/011,703~~ 11/011,703
Filed: Dec. 14, 2004
Docket: P/25-304
Title: RADIATION PROBE AND DETECTING TOOTH DECAY

DECISION ON PETITION

This is a decision on the petition received on July 28, 2008, seeking to suspend Office action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103(a). The requisite $200.00 petition fee has been paid.

The petition is dismissed as moot.

The record shows that an amendment under 37 CFR 1.111 was filed with the petition to suspend Office action on July 28, 2008. The examiner did not act on the case for more than six months.

In light of the fact that more than eight months have passed from the date of the filing the petition and no action was taken on this application, which is more than the time period what the petitioner had requested, this petition has been rendered moot. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571)-272-4856.

PETITION DISMISSED AS MOOT

Robert Olszewski, Director
Technology Center 3700

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

Mail Date: 04/26/2010

Applicant	: Erol Bozak	: DECISION ON REQUEST FOR
Patent Number	: 7644137	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,713	: 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 **1077** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Marin Saric	: DECISION ON REQUEST FOR
Patent Number	: 7660458	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,727	: 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 **982** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 11 2007

OFFICE OF PETITIONS

In re Application of
Eric J. ROBERTS
Application No. 11/011,737
Filed: December 14, 2004
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 May 11, 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 Gregg A. Peacock on behalf of all attorneys of record who are associated with customer No. 45457.

All attorneys/agents associated with the Customer Number 45457 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).

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

There are no pending Office actions pending at the present time.

April Wise
Petitions Examiner
Office of Petitions

cc: ERIC J. ROBERTS
900 N. RURAL ROAD
CHANDLER, AZ 85226

cc: CATHY DIKES
INTEL CORPORATION
M/S LF2 4040 LAFAYETTE CENTER DRIVE
CHANTILLY, VA 20151

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/011,737	12/14/2004	Eric J. Roberts	884.D20US1

CONFIRMATION NO. 7866

OC000000025373339

45457
SCHWEGMAN, LUNDBERG & WOESSNER/Intel
PO BOX 2938
MINNEAPOLIS, MN 55402

Date Mailed: 08/15/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/11/2007.

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

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

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PO BOX 2938
MINNEAPOLIS MN 55402

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Eric J. Roberts	:	
Application No. 11/011,737	:	DECISION ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. 884.D20US1	:	

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

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed January 15, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 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 an Election, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

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

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,350.00 extension of time fee submitted with the petition on February 11, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 2624 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PO BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 06/02/2010

Applicant	: Eric J. Roberts	: DECISION ON REQUEST FOR
Patent Number	: 7639887	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/011,737	: 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 **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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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

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SEP 2 8 2005

OFFICE OF PETITIONS

In re Application of	:
Rhodus et al.	:
Application No. 11/011,742	: DECISION ON PETITION
Filed: December 14, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 2003-0487.03	:

This is a decision on the petition filed May 6, 2005, which is being treated as a petition under 37 CFR §1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior filed provisional application no. 60/529,863 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)(6) and is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR §1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119 (e) and 37 CFR 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)(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 application is submitted after expiration of the period specified in 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 CFR 1.78 (a)(5)(ii).

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 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 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 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) 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 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 application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Charlema R. 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 the examiner of Technology Center Art Unit 2111 for appropriate action on the amendment filed May 6, 2005 including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional application.

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

Attachment: Corrected Filing Receipt

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

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JAN 25 2006

OFFICE OF PETITIONS

Applicant: Taleb
Appl. No.: 11/011,780
Filing Date: December 15, 2004
Title: PARTIAL SPECTRAL LOSS CONCEALMENT IN TRANSFORM CODECS
Attorney Docket No.: 4147-99
Pub. No.: US 2005/0163234 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 August 29, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Robert S. Bray	: DECISION ON REQUEST FOR
Patent Number	: 7578833	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,794	: 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 **695** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 05/18/2010

Applicant : Robert S. Bray
Patent Number : 7578833
Issue Date : 08/25/2009
Application No: 11/011,794
Filed : 12/13/2004

: 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 **764** 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.: _____

DATE : 5-27-10

TO SPE OF : ART UNIT ~~2821~~ 2163

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/011807 Patent No.: 7092418

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

Ennis Young LTE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

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

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

SPE

2163
ART UNIT

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GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE, N.W.
SUITE C-2
WASHINGTON DC 20007

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JAN 09 2007

OFFICE OF PETITIONS

In re Application of	:	
Wensman, Alan	:	
Application No. 11/011,832	:	ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. 2431-3	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 22, 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 Replacement Drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3282.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : September 13, 2006

Patent No. :7,091,848
Inventor(s) : Jason P. Albarado
Issued :August 15, 2006
Title :ENCLOSURE SYSTEM FOR HOT WORK WITHIN THE VICINITY OF
:FLAMMABLE OR COMBUSTIBLE MATERIAL
Docket No. :16102-12

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.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

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

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Cecelia Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

Henry E. Naylor
P.O. Box 3513
Baton Rouge, LA 70821

CBN/arg

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Dong Zhang
7641-A Coachling Lane
Ellicott City, MD 21043

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of Dong Zhang Application No. 11/011886 Filing or 371(c) Date: 12/13/2004 Title of Invention: AIR DUCT FILTER ASSEMBLY WITH IDENTICAL AND COLOR CODED AIR FILTER	: : : : : : : :	ON PETITION

This is a decision on the petition under 37 CFR 1.137(a), filed October 17, 2007, to revive the above-identified application.

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 non-final Office action, mailed February 28, 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).

Applicant filed a reply/amendment on August 22, 2007; however, the reply/amendment was not entered because the reply/amendment required an extension of time and fee in order to be considered timely. Applicant was so notified in a Notice of Non-Compliant Amendment mailed September 17, 2007.

Applicant filed a subsequent reply on October 3, 2007, along with a fee payment of $795.00, apparently for a four (4) month extension of time; however, the application was at that time abandoned.

No complete and proper reply having been received, the application became abandoned on May 29, 2007 (the day after the reply was due as set forth in the non-final Office action, mailed February 28, 2007. A Notice of Abandonment was mailed October 11, 2007.

The instant petition

Applicant files the present petition and states that the "main cause of unavoidable delay is the fact that the applicant is not an attorney." Petition at p.3. Applicant states as the second cause, Applicant's receipt of the Notice of Non-Compliant Amendment mailed on September 17, 2007, on September 24, 2007. Applicant states that he did not fully understand the conversation he had with the Legal Instruments Examiner ("LIE") who mailed the Notice of Non-Compliant Amendment. Applicant states that he has been hesitant in calling the Office for help, but this is his first time applying for a patent.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

Applicable Law, Rules and MPEP

As to item (**3**), Applicant must provide a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable. Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word unavoidable' . . . is applicable to ordinary human affairs, and requires no

> more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.
> In re Mattullath , 38 App. D.C. 497, 514-15 (1912)(quoting Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 667-68 (D.D.C. 1963), aff 'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP, however, does not constitute "unavoidable" delay. See Haines, 673 F. Supp. at 317, 5 USPQ2d at 1132; Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891). For example, as 37 CFR 1.116 and 1.135(b) are manifest that proceedings concerning an amendment after final rejection will not operate to avoid abandonment of the application in the absence of a timely and proper appeal, a delay is not "unavoidable" when the applicant simply permits the maximum extendable statutory period for reply to a final Office action to expire while awaiting a notice of allowance or other action. Likewise, as a "reasonably prudent person" would file papers or fees in compliance with 37 CFR 1.8 or 1.10 to ensure their timely filing in the USPTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file papers or fees in compliance with 37 CFR 1.8 and 1.10 does not constitute "unavoidable" delay. See Krahn, 15 USPQ2d at 1825. **Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicant's reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.** See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985). 35 U.S.C. 133 and 151 each require a showing that the "delay" was "unavoidable," which requires not only a showing that the delay which resulted in the abandonment of the application was unavoidable, but also a showing of unavoidable delay until the filing of a petition to revive. See In re Application of Takao, 17 USPQ2d 1155 (Comm'r Pat. 1990).

The burden of continuing the process of presenting a grantable petition in a timely manner likewise remains with the applicant until the applicant is informed that the petition is granted. Id. at 1158. Thus, an applicant seeking to revive an "unavoidably" abandoned application must cause a petition under 37 CFR 1.137(a) to be filed without delay (i.e., promptly upon becoming notified, or otherwise becoming aware, of the abandonment of the application).Specifically, petitioner's delay caused by the actions or inactions of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 USC 133 or 37 CFR 1.137(a). Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2d 1130 (D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891). In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913).

Finally, Applicant is advised that when he chooses to prosecute without the assistance of counsel, he is obligated to either familiarize himself with the requirements of successfully prosecuting this application, or retain counsel. Persons seeking patent rights have no "right" to the assistance of counsel during the application process. Boyden v. Commissioner of Patents, 441 F.2d 1041, 168 USPQ 680 (D.C. Cir. 1971).

Analysis

Applicant here asserts that the delay in responding to the Office action was unavoidable because he is not an attorney, because the Notice of Non-Compliant Amendment was received one week after it was mailed, and because Applicant did not understand the conversation with the LIE.

Applicant is advised that, as stated above, the lack of knowledge or improper application of the patent laws and rules do not constitute unavoidable delay. Likewise, the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action, in this instance, the receipt of the Notice of Non-Compliant Amendment a week after its mail date, also does not constitute unavoidable delay.

Applicant is advised that the application went abandoned for failing to reply to the Office action, mailed February 28, 2007. The Notice of Non-Compliant was mailed as a courtesy by this office, informing Applicant that the amendment was noncompliant; however, the application was abandoned after the three (3) months had passed after the Office action was mailed, and Applicant had not filed a reply.

Further to this, Applicant is advised that the maximum period for responding to the Office action, including extensions of time, is six (6) months. As such, a reply, including a three (3) month extension of time and extension of time fee required to render the reply timely, was due not later than August 28, 2007. Applicant filed a reply on August 22,

2007; however, the reply failed to include the requisite extension of time.

The $795.00 submitted October 3, 2007

Applicant submitted $795.00 in response to the Notice of Non-Compliant Amendment which informed Applicant that a four (4) month extension of time was required.

Initially it is noted that the reply required a three (3) month extension of time. However, because the application is abandoned, no extension of time is available. (An extension of time is to extend the period due for the reply to the Office action. Here, the period for reply has expired, such that no extensions of time are available). Applicant may request a refund of the extension of time fee, or Applicant may file a petition under 37 CFR 1.137(b) (see below), and request that this Office apply the fee to the petition fee, currently $770.00 for a small entity.

Alternate venue

Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee, currently $770.00 for a small entity.

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

Finally, Applicant is advised that a list of registered practitioners is available at www.uspto.gov/main/patents. Applicant is further advised that the Inventor's Assistance Center is available to provide assistance, at 1-800-786-9199, for assistance in prosecuting the patent application.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dong Zhang
7641-A Coachling Lane
Ellicott City, MD 21043

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong Zhang	:	
Application No. 11/011886	:	
Filing or 371(c) Date: 12/13/2004	:	ON PETITION
Title of Invention:	:	
AIR DUCT FILTER ASSEMBLY WITH	:	
IDENTICAL AND COLOR CODED AIR	:	
FILTER	:	

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

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 non-final Office action, mailed February 28, 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).

Applicant filed a reply/amendment on August 22, 2007; however, the reply/amendment was not entered because the reply/amendment required an extension of time and fee in order to be considered timely. Applicant was so notified in a Notice of Non-Compliant Amendment mailed September 17, 2007. The Notice of Non-Compliant Amendment mailed September 17, 2007 informed Applicant that the extension of time fee ((four (4) months and in the amount of $795.00)), must be received on or before September 22, 2007.

Applicant filed a subsequent reply on October 3, 2007, along with a fee payment of $795.00, apparently for a four (4) month extension of time; however, the application was at that time abandoned.

No complete and proper reply having been received, the application became abandoned on May 29, 2007 (the day after the reply was due as set forth in the non-final Office action, mailed February 28, 2007. A Notice of Abandonment was mailed October 11, 2007.

The October 17, 2007 petition under 37 CFR 1.137(a)

Applicant filed a petition under 37 CFR 1.137(a) on October 17, 2007, wherein Applicant stated that the "main cause of unavoidable delay is the fact that the applicant is not an attorney." Petition at p.3. Applicant stated as the second cause, Applicant's receipt of the Notice of Non-Compliant Amendment mailed on September 17, 2007, on September 24, 2007. Applicant stated that he did not fully understand the conversation he had with the Legal Instruments Examiner ("LIE") who mailed the Notice of Non-Compliant Amendment. Applicant stated that he had been hesitant in calling the Office for help, but this is his first time applying for a patent.

The November 28, 2007 Decision dismissing the petition

The petition was dismissed in a Decision mailed November 28, 2007. The Decision dismissing the petition informed Applicant that the lack of knowledge or improper application of the patent laws and rules do not constitute unavoidable delay. Likewise, the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action, in this instance, the receipt of the Notice of Non-Compliant Amendment a week after its mail date, also does not constitute unavoidable delay.

Applicant was also advised that the application went abandoned for failing to reply to the Office action, mailed February 28, 2007. The Notice of Non-Compliant was mailed as a courtesy by this office, informing Applicant that the amendment was noncompliant; however, the application was abandoned after the three (3) months had passed after the Office action was mailed, and Applicant had not filed a reply.

Further to this, Applicant was advised that the maximum period for responding to the Office action, including extensions of time, is six (6) months. As such, a reply, including a three (3) month extension of time and extension of time fee required to render the reply timely, was due not later than August 28, 2007. Applicant filed a reply on August 22, 2007; however, the reply failed to include the requisite extension of time.

As to the extension of time fee, it was initially noted that the reply required a three (3) month extension of time. However, because the application is abandoned, no extension of time was available. Applicant was advised that an extension of time is to extend the period due for the reply to the Office action. Here, the period for reply had expired, such

that no extensions of time were available. Applicant was advised that he may request a refund of the extension of time fee, or Applicant may file a petition under 37 CFR 1.137(b) , and request that this Office apply the fee to the petition fee, currently $770.00 for a small entity.

The present petition

Applicant files the present petition; however, no petition fee has been received, nor has Applicant requested that this Office apply the extension of time fee to the petition fee. The petition indicates that the petition fee, $770.00, was enclosed with the petition; however, no petition fee was received in this Office.

A Grantable Petition Under 37 CFR 1.137(b)

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.

The petition fee

As to item **(2)**, Applicant is advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. Applicant is again advised that he may request that this Office apply the $795.00 extension of time fee towards the petition fee.

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

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Dong Zhang
7641-A Coachling Lane
Ellicott City, MD 21043

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APR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Dong Zhang	:	
Application No. 11/011886	:	
Filing or 371(c) Date: 12/13/2004	:	ON PETITION
Title of Invention:	:	
AIR DUCT FILTER ASSEMBLY WITH	:	
IDENTICAL AND COLOR CODED AIR	:	
FILTER	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed March 10, 2008, to revive the above-identified application.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed February 28, 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).

Applicant filed a reply/amendment on August 22, 2007; however, the reply/amendment was not entered because the reply/amendment required an extension of time and fee in order to be considered timely. Applicant was so notified in a Notice of Non-Compliant Amendment mailed September 17, 2007. The Notice of Non-Compliant Amendment mailed September 17, 2007 informed Applicant that the extension of time fee ((four (4) months and in the amount of $795.00)), must be received on or before September 22, 2007.

Applicant filed a subsequent reply on October 3, 2007, along with a fee payment of $795.00, apparently for a four (4) month extension of time; however, the application was at that time abandoned.

No complete and proper reply having been received, the application became abandoned on May 29, 2007 (the day after the reply was due as set forth in the non-final Office action, mailed February 28, 2007. A Notice of Abandonment was mailed October 11, 2007.

The October 17, 2007 petition under 37 CFR 1.137(a)

Applicant filed a petition under 37 CFR 1.137(a) on October 17, 2007, wherein Applicant stated that the "main cause of unavoidable delay is the fact that the applicant is not an attorney." Petition at p.3. Applicant stated as the second cause, Applicant's receipt of the Notice of Non-Compliant Amendment mailed on September 17, 2007, on September 24, 2007. Applicant stated that he did not fully understand the conversation he had with the Legal Instruments Examiner ("LIE") who mailed the Notice of Non-Compliant Amendment. Applicant stated that he had been hesitant in calling the Office for help, but this is his first time applying for a patent.

The November 28, 2007 Decision dismissing the petition

The petition was dismissed in a Decision mailed November 28, 2007. The Decision dismissing the petition informed Applicant that the lack of knowledge or improper application of the patent laws and rules do not constitute unavoidable delay. Likewise, the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action, in this instance, the receipt of the Notice of Non-Compliant Amendment a week after its mail date, also does not constitute unavoidable delay.

Applicant was also advised that the application went abandoned for failing to reply to the Office action, mailed February 28, 2007. The Notice of Non-Compliant was mailed as a courtesy by this office, informing Applicant that the amendment was noncompliant; however, the application was abandoned after the three (3) months had passed after the Office action was mailed, and Applicant had not filed a reply.

Further to this, Applicant was advised that the maximum period for responding to the Office action, including extensions of time, is six (6) months. As such, a reply, including a three (3) month extension of time and extension of time fee required to render the reply timely, was due not later than August 28, 2007. Applicant filed a reply on August 22, 2007; however, the reply failed to include the requisite extension of time.

As to the extension of time fee, it was initially noted that the reply required a three (3) month extension of time. However, because the application is abandoned, no extension of time was available. Applicant was advised that an extension of time is to extend the period due for the reply to the Office action. Here, the period for reply had expired, such

that no extensions of time were available. Applicant was advised that he may request a refund of the extension of time fee, or Applicant may file a petition under 37 CFR 1.137(b) , and request that this Office apply the fee to the petition fee, currently $770.00 for a small entity.

The December 28, 2007 and December 31, 2007 petitions

Applicant filed petitions on December 28, and December 31, 2008 to revive the application under 37 CFR 1.137(b); however, no petition fee has been received, nor had Applicant requested that this Office apply the extension of time fee to the petition fee. The petition was dismissed in a Decision mailed February 13, 2008. Applicant was advised that before the merits of Applicant's petition may be considered, the petition fee must be submitted. Applicant was again advised that he may request that this Office apply the $795.00 extension of time fee towards the petition fee.

The present renewed petition

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 filed October 3, 2007; (2) the petition fee; and (3) a proper statement of unintentional delay.

The petition fee, $770.00, has been applied from the 795.00 extension of time fee referenced above. Applicant is advised that refunds of twenty-five dollars or less must be specifically requested. See, 37 CFR 1.26(a).

The application is being referred to Technology Center Art Unit 1797 for processing of the Amendment/reply filed October 3, 2007, 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

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OCT 0 3 2007
PATENT & TRADEMARK OFFICE

October 2, 2007

Mr. Dong Zhang
7641-A Coachlight Lane
Ellicott City, MD 21043

COMMISSIONER FOR PATENTS
P.O. BOX 1450
Alexandria, Virginia 22313-1450

Dear Miss Yolanda Middleton:

This letter regard

EXAMINER: MIDDLETON, YOLANDA;
APPLICATION NO.: 11/011,886;
CONFIRMATION NO. 6622;
ART UNIT 1724

Enclosed please find

1, a check of $795.00 to Commissioner for Patents;

2, a letter to EXAMINER: PHAM, MINH CHAU THI;

3, a copy of a separate abstract sheet;

4, rewritten claims; and

5, my answers to the questions by EXAMINER: PHAM, MINH CHAU THI.

Thank you very much for your help and professionalism. Since I am not a patent lawyer, I greatly appreciate your work on my application.

Adjustment date: 04/11/2008 CKHLOK
10/03/2007 AAHMADI 00000044 11011886
01 FC:1999 -795.00 OP

04/11/2008 CKHLOK 00000008 11011886
01 FC:2453 770.00 OP
02 FC:1999 25.00 OP

Sincerely,

Dong Zhang

10/03/2007 AAHMADI 00000044 11011886
01 FC:1999 795.00 OP

APPLICATION NO.: 11/011,886

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11011886

Total Records Found: 5

Start Date: Any Date

End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
10/18/2007	00000002	1	2452	$255.00	10/17/2007	CK
10/03/2007	00000055	1	1999	$795.00	10/03/2007	CK
12/17/2004	00000234	1	2011	$150.00	12/13/2004	CK
12/17/2004	00000235	1	2111	$250.00	12/13/2004	CK
12/17/2004	00000236	1	2311	$100.00	12/13/2004	CK

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JAN 04 2010

OFFICE OF PETITIONS

LSI CORPORATION
1621 BARBER LANE
MS: D-105
MILPITAS CA 95035

In re Application of	:	
Nicholas K. EIB, et al	:	
Application No. 11/011,896	:	DECISION ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. 04-0956/LSI1P257	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 2009 and supplemented on November 11, 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, October 15, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 16, 2009.

As stated in petitioner's response dated September 30, 2009, the Notice mailed March 19, 2009, does not set forth a period for reply. Accordingly, the date of abandonment is set at six (6) months from the shortened statutory period for reply to the Office action dated October 15, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

Since petitioner makes reference in the petition dated November 11, 2009, to it being the "understanding of the attorney of record" that the entire delay was unintentional, the statement is being construed as the required statement under 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

The petition fee charged with the petition dated November 11, 2009, will be refunded to petitioner's Deposit Account No. 12-2252, since the fee was previously collected with the response dated September 30, 2009.

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received September 30, 2009.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: FRANCIS T. KALINSKI II
P.O. BOX 1687
CUPERTINO, CA 95015-1687

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

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Hubert Benzel	: DECISION ON REQUEST FOR
Patent Number	: 7569412	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,898	: 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 **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.

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Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SEP 21 2006
OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO IL 60604

In re Application of
Takao Tomonaga
Application No. 11/011,922
Filed: December 14, 2004
Attorney Docket No. 14034

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 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. 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

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

SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN NSW 2-041 AU AUSTRALIA

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SEP 01 2006
OFFICE OF PETITIONS

In re Application of :
Kia Silverbrook :
Application No. 11/011,925 :
Filed: December 15, 2004 :
Attorney Docket Number: BEA005US :

This is a decision in response to the petition under 37 CFR 1.137(b), filed October 31, 2005, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), mailed February 3, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on April 4, 2005. A Notice of Abandonment was mailed on October 5, 2005.

With the instant petition Petitioner has filed the requisite fees.

This application is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE 2/19/09

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/011930 Patent No.: 7467138B2

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** 03/05/07 — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

SPE

2161
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Eiji Atsumi	: DECISION ON REQUEST FOR
Patent Number	: 7589858	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/011,931	: 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 **1171** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HONEYWELL
INTERNATIONAL INC.
101 COLUMBIA ROAD
PO BOX 2245
MORRISTOWN NJ 07962-2245

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OFFICE OF PETITIONS

In re Application of
John J. Deinlein et al
Application No. 11/011,946
Filed: December 15, 2004
Attorney Docket No. 11/011,946

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the nonfinal rejection mailed August 20, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,620.00; 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. 12/414,112, filed March 30, 2009.

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

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EVELYN M. SOMMER
570 LEXINGTON AVENUE/17TH FLOOR
NEW YORK NY 10022

MAILED
JUL 02 2010
OFFICE OF PETITIONS

In re Application of :
Vernice, et al. :
Application No. 11/011,974 :
Filed: 3 May, 2007 :
Attorney Docket No: (None) :

DECISION

This is a decision on the petition filed on 29 January, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the final Office action mailed on 15 July, 2009, with reply due absent extension of time on or before 15 October, 2009.

On 15 September, 2009, Petitioner filed an amendment after final, which the Examiner refused to enter and Petitioner—as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance, and on 13 October, 2009, the Examiner mailed an Advisory Action.

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

The application went abandoned by operation of law after midnight 15 October, 2009.

The Office mailed the Notice of Abandonment on 27 January, 2010.

On 29 January, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, with a statement of unintentional delay (which, however, is not fully compliant with the regulation) and a reply in the form of a request for continued examination (RCE) and fee with a submission under the provisions of 37 C.F.R. §1.114 in the form of the previously filed amendment.

The Office notes that Petitioner's:

- request and fee for extension of time filed after expiration of the statutory period of reply are not proper. The fee will be refunded via Treasury check—should Petitioner later find that the fee has not been refunded, Petitioner should file a request with the Office of Finance and submit with it a copy of this decision; and

- statement appearing in the petition varies from the language required by 37 C.F.R. §1.137(b)(3)—that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional." Therefore, the Office is construing the statement as the required statement. Petitioner **must** notify the Office if this is **not** a correct reading of the statement appearing in the petition.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

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.[4]))

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU (TC/AU) 1619 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.

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35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an 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[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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JAMES J. MURPHY
THOMPSON AND KNIGHT LLP
1700 PACIFIC AVENUE
SUITE 3300
DALLAS, TX 75201

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DEC 07 2007

OFFICE OF PETITIONS

In re Application of :
Kartik Nanda et al :
Application No. 11/011,983 : ON PETITION
Filed: December 14, 2004 :
Attorney Docket No. 1534-CA

This is a decision on the petition, filed December 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 November 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2819 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/011,983	12/14/2004	Kartik Nanda	1534-CA	7729

31127 7590 11/24/2008
JAMES J. MURPHY
THOMPSON AND KNIGHT LLP
1700 PACIFIC AVENUE
SUITE 3300
DALLAS, TX 75201

EXAMINER
MAI, LAM T

ART UNIT	PAPER NUMBER
2819	

MAIL DATE	DELIVERY MODE
11/24/2008	PAPER

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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James Murphy
Thompson and Knight LLP
1700 Pacific Avenue
Suite 3300
Dallas, TX 75201

In re Application of al.	:	
Application No. 11/011,983	:	NOTICE OF WITHDRAWAL
Filed: 12/14/2004	:	FROM ISSUE
Attorney Docket No. 1534-CA	:	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 09/05/2008, are hereby vacated.

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

The issue fee is refundable upon request. However, the 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, the applicant may request either a refund or a credit to a Deposit Account.

Telephone inquires should be directed to Rexford Barnie, Supervisory Patent Examiner, Art Unit 2819, at (571) 272-7492.

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

John Cabeca, Director, Acting
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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MARGER JOHNSON & MCCOLLOM, P.C.
210 SW MORRISON STREET, SUITE 400
PORTLAND, OR 97204

Mail Date: 06/16/2010

Applicant	: Michael A. Ramalho	: DECISION ON REQUEST FOR
Patent Number	: 7633879	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,017	: 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 **909** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Maria Erlinda C. Sarno, Esq.
P.O. Box 1023
Artesia CA 90702

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
Cho :
Application No. 11/012,037 :
Filed: December 14, 2004 :
Attorney Docket No. N/A :
For: INTERCHANGEABLE TOOL HEADS

ON PETITION

This is a decision on the petition captioned "PETITION TO REVIVE PATENT APPLICATION," filed August 10, 2006. Petitioner alleges non-receipt. Therefore, the petition will be treated under 37 CFR 1.181, filed August 10, 2006, as a petition to withdraw the holding of abandonment.

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

Any further reconsideration petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The Office contends that the above-identified application became abandoned for failure to submit a reply to the January 25, 2006 non-final Office action, which set an extendable three month period for reply. No extensions of time or reply being received, the Office considered this application abandoned on April 26, 2006. A Notice of Abandonment was mailed on May 17, 2007.

Petitioner alleges that the January 25, 2006 non-final Office action was not received at the correspondence address of record.

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]

A review of the record indicates no irregularity in the mailing of the January 25, 2006 non-final Office action, and in the absence of any irregularity there is a strong presumption that the communication was properly mailed to the applicant at the correspondence address of record. This presumption may be overcome by a showing that the aforementioned communication was not in fact received.

The showing in the instant petition is not sufficient to withdraw the holding of abandonment because (1) practitioner did not include a statement that a thorough search of the file jacket and applicable docket records was conducted and (2) practitioner did not include a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed.

Petitioner has not provided adequate evidence of non-receipt. The petition is dismissed.

If petitioner cannot provide the evidence necessary to establish non-receipt, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $750.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

By mail:

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

---

[1] See notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G. 53 (November 16, 1993).

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

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

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHERRILL LAW OFFICES
4756 BANNING AVE
SUITE 212
WHITE BEAR LAKE, MN 55110-3205

Mail Date: 04/20/2010

Applicant	: Daniel W. Mayer	: DECISION ON REQUEST FOR
Patent Number	: 7569128	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,046	: OF WYETH
Filed	: 12/14/2004	:
		:

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

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

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

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

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

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

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

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

or

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/012,052	12/14/2004	Giuseppe Natoli	U 015537-6	5130

140 7590 08/07/2006

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

EXAMINER
GOLOBOY, JAMES C

ART UNIT	PAPER NUMBER
1714	

DATE MAILED: 08/07/2006

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Mailed:

In re Application of:
Giuseppi Natoli et al.
Serial No.: 11/012,052
Filed: December 14, 2004
For: Method and system for modifying a used hydrocarbon fluid to create a cylinder oil

DECISION ON PETITION

This is a decision on the petition filed July 17, 2006 to correct inventorship under 37 CFR §1.48(a). It is noted that the applicants have met the requirements of (i) a petition including statements from Claus Martin Olesen and Klaus-Werner Damm, who are being added as inventors, that the error in inventorship occured without deceptive intention on their part; (ii) oaths or declarations by the inventors; (iii) the processing fee set forth in 37 CFR §1.17(i); and (iv) the written consent of the assignee, A.P. Moller-Maersk A/S, under 37 CFR 3.73(b).

The petition is therefore GRANTED.

Vasu Jagannathan
SPE, Art Unit 1714

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

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WASHINGTON, DC 20036

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FEB 06 2008

OFFICE OF PETITIONS

In re Application of	:	
Klaas Poelstra et al	:	
Application No. 11/012,056	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. 7392/84211	:	

This is a decision on the petition filed November 26, 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 August 21, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 22, 2007.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, IL 60610

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AUG 06 2009

OFFICE OF PETITIONS

In re Application of

Gerhard Uwe Schmidt et al
Application No. 11/012,079
Filed: December 14, 2004
Attorney Docket No. 11336-806 (P05018US)

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 June 15, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that John F. Nethery 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.

There is an outstanding Office action mailed June 25, 2009 that requires a reply from the applicant.

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

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Robert P. Hart
Harman International Industries, Incorporated
8500 Balboa Boulevard
Northridge, CA 91329

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/24/09

TO SPE OF : ART UNIT 2611 David Payne (Spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/012088 Patent No.: 7505536

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

H. Riley
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: _____

Shewang Lin
SPE

2611
Art Unit

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO. : 7,505,536

APPLICATION NO.: 11/012,088

ISSUE DATE : March 17, 2009

INVENTOR(S) : Tetsuya YAGI et al.

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

Column 12

In claim 4, line 13, the word "sift" should read --shift--.

Column 13

In claim 6, line 7, the phrase "Ps x i" should read -- Ps x 2^i --.

In claim 6, line 13, the word "sift" should read --shift--.

Column 14

In claim 9, line 5, the word "ERRS" should read --PRBS--.

In claim 10, line 3, "15 2^i(i=0 to 14)" should read --fifteen 2^i(i=0 to 14)--.

In claim 10, line 9, the word "ERRS" should read --PRBS--.

Column 15

In claim 13, line 3, "12 2^i(i=0 to 11)" should read --twelve 2^i(i=0 to 11)--.

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Smith Patent Office
1901 Pennsylvania Ave., N.W. Suite 901
Washington DC, 20006

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

PTO/SB/44 (09-07)
Approved for use through 08/31/2010. OMB 0651-0033
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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. : 7,505,536

APPLICATION NO.: 11/012,088

ISSUE DATE : March 17, 2009

INVENTOR(S) : Tetsuya YAGI et al.

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

Column 16

In claim 14, line 8, "B_{num}=M·S'$_x$·R'$_x$·SYM, and" should read -- B_{num}=M·S'$_x$·R'$_x$· NSEG$_x$·SYM, and--

MAILING ADDRESS OF SENDER (Please do not use customer number below):
Smith Patent Office
1901 Pennsylvania Ave., N.W. Suite 901
Washington DC, 20006

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 : 9/11/08

TO SPE OF : ART UNIT 2883 Font Frank (spe)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/012115 Patent No.: 7379637

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: _____

[signature] 2883

SPE **Art Unit**

SPE: A. Hirshfeld

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 7/3/04

TO SPE OF : ART UNIT 2858

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/012,175 Patent No.: 7155138

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

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

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

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

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

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

Comments: _____

ANDREW H. HIRSHFELD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

SPE

2858
Art Unit

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 04/20/2010

Applicant	: Takenori Yoshizawa	: DECISION ON REQUEST FOR
Patent Number	: 7579072	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,200	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/05/09

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 11012208 Patent No.: 7386371 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

You can fax the Directors/SPE response to 571-270-9990

_____
Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

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

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

Comments: No new matter is added. Correction is made to foreign priority data. GAT

_____ _____

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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THE LAW OFFICES OF ANDREW D. FORTNEY, PH.D., P.C.
215 W FALLBROOK AVE SUITE 203
FRESNO, CA 93711

Mail Date: 04/21/2010

Applicant	: Terry Lee Hicks	: DECISION ON REQUEST FOR
Patent Number	: 7604797	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,210	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **148** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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FEB 28 2006

OFFICE OF PETITIONS

In re Application of	:	
Madgy Younes	:	
Application No. 11/012,214	:	DECISION GRANTING
Filed: December 16	:	PETITION UNDER
For: TREATMENT OF OBSTRUCTIVE	:	37 CFR 1.137(b)
SLEEP APNEA	:	

This is in response to a Petition Under 37 CFR 1.137(b), filed December 7, 2005.

The petition under is granted.

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed January 31, 2005. The Notice set a two (2) month period for reply. No reply having been received, the application became abandoned on April 1, 2005. A Notice of Abandonment was mailed October 5, 2005.

With the instant petition, Applicant files a reply to the Notice.

Accordingly, the petition is granted.

The application file is being referred to the Office of Initial Patent Examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Schwabe Williamson & Wyatt
PACWEST CENTER, SUITE 1900
1211 SW FIFTH AVENUE
PORTLAND, OR 97204

Mail Date: 04/21/2010

Applicant	: James D. Woodford	: DECISION ON REQUEST FOR
Patent Number	: 7571751	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **544** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GOWLING, LAFLEUR HENDERSON LLP
ONE MAIN STREET WEST
HAMILTON, ON
L8P 4Z5
CANADA

In re application of	:	**DECISION ON PETITION**
Daniel D. Kewin	:	**TO MAKE SPECIAL**
Application No. 11/012,221	:	**(APPLICANT'S AGE)**
Filed: December 16, 2004	:	
For: TUBULAR CORE ASSEMBLIES FOR ROLLS OF PAPER OR OTHER SHEET METERIAL		

This is a decision on the petition submitted on October 19, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a signed declaration indicating Mr. Kewin is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/slb: 11/16//05

UNITED STATES PATENT AND TRADEMARK OFFICE

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HARNESS DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

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NOV 09 2009

OFFICE OF PETITIONS

In re Application of :
Gregory Duval :
Application No. 11/012,230 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. 90500-000037/US :

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

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 25, 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). One 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 March 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2436 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 03 2006

OFFICE OF PETITIONS

In re Application of	:	
Soichiro Mitsui et al	:	
Application No. 11/012,257	:	ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 263126US2SRDCONT	:	

This is a decision on the petition, filed December 30, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on November 4, 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 2851 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

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

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OFFICE OF PETITIONS

Letter

In re Patent of Kataoka et al. :
Patent No. 7,238,120 :
Issue Date: July 3, 2007 :
Application No. 11/012,301 :
Filing Date: December 16, 2004 :
Attorney Docket No. Q85419 :

This is a decision in response to the request under 37 CFR 3.81(b) filed July 13, 2007, which requests the Office accept the correction of the assignee data on the front page of the above-identified patent.

The request under 37 CFR 3.81 is **GRANTED**.

37 CFR 3.81(b) reads:

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

In other words, the request under 37 CFR 3.81(b) will be granted when:

(1) a request under 37 CFR 3.81 and the fee set forth in 37 CFR 1.17(i) are filed,
(2) the assignment was submitted for recordation prior to issuance of the patent, and
(3) a request for a certificate of correction and the fee set forth in 37 CFR 1.20(a) are submitted.

Patentees have met the requirements set forth above. Therefore, the request is granted.

The required fee of $130 has been charged to the deposit account number listed in the Request.

The Certificates of Correction Branch will be informed of the instant decision and will issue the requested certificate of correction 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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Alexandria, VA 22313-1450
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MONTREAL QC H3A 3H3 CA CANADA

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DEC 08 2008

OFFICE OF PETITIONS

In re Application of
Dussault
Application No. 11/012,305
Filed: December 16, 2004
Attorney Docket No. 773/14461.3

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit corrected drawings in a timely manner in reply to the Notice of Allowability, mailed June 4, 2008, which set a period for reply of three (3) months. Accordingly, this application became abandoned on September 5, 2008. A Notice of Abandonment was mailed on October 1, 2008.

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 $81.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)3230.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Hakansson et al. :
Application No. 11/012,314 : DECISION ON PETITIONS
Filed: December 16, 2004 :
Attorney Docket No. 10215-000020/US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 15, 2009, to revive the above-identified application. This petition decision will also address the petition filed under 37 CFR 1.78

The petition under 37 CFR 1.137(b) is **DISMISSED.**
The petition under 37 CFR 1.78 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." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 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). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 14, 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 over two-year delay 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 14, 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). Statements are required from any and all 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. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Petition Under 37 CFR 1.78

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.

As to item (3), in light of the extended abandonment, the Office requires additional information regarding the length of abandonment

Any renewed petition may be addressed as follows:

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

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

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

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

Capitol City TechLaw, PLLC
PO BOX 1210
VIENNA VA 22183

In re Application of	: DECISION ON PETITIONS
Hakansson et al.	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/012,314	: PETITION UNDER 37 CFR 1.137(b)
Filed: December 16, 2004	:
Attorney Docket No. 10215-000020/US	:

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3), filed July 2, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/SE2003/001069, filed June 23, 2003, as set forth in the accompanying amendment and the petition to revive the application pursuant to 37 CFR 1.137(b).

The petition under 37 CFR 1.78 is **GRANTED.**
The petition under 37 CFR 1.137(b) 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 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.

Petition under 37 CFR 1.137(b)

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 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). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is March 14, 2007.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620.00; and (3) an adequate statement of unintentional delay.

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 the examiner of Technology Center Art Unit 2872 for 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 and processing of the RCE.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/012,314	12/16/2004	2872	1130	10215-000020/US	9	1

CONFIRMATION NO. 8298

CORRECTED FILING RECEIPT

75304
Capitol City TechLaw, PLLC
PO BOX 1210
VIENNA, VA 22183

OC000000038669288

Date Mailed: 11/09/2009

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)

Hakan Hakansson, Lund, SWEDEN;
Ralf Wiklund, Odakra, SWEDEN;

Power of Attorney: The patent practitioners associated with Customer Number 75304

Domestic Priority data as claimed by applicant

This application is a CON of PCT/SE03/01069 06/23/2003

Foreign Applications

SWEDEN 0201932-1 06/24/2002

If Required, Foreign Filing License Granted: 11/08/2009

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/012,314**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Weapon sight

Preliminary Class

359

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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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

Mail Date: 04/20/2010

Applicant	: Jie Liu	: DECISION ON REQUEST FOR
Patent Number	: 7618300	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,341	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **0** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Hanify & King, P.C.
1055 Thomas Jefferson Street, NW
Suite 400
WASHINGTON, DC 20007

Mail Date: 05/04/2010

Applicant	: Marcos M. Campos	: DECISION ON REQUEST FOR
Patent Number	: 7627620	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,350	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **742** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. BOX 2938
MINNEAPOLIS MN 55402

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AUG 23 2006
OFFICE OF PETITIONS

In re Application of	:	
Glen K. Okita et al.	:	
Application No. 11/012,391	:	DECISION ON REQUEST
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 2046.001US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed April 7, 2006.

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

A review of the file record indicates that the power of attorney to Andrea L. Marais and all the attorneys/agents of record associated with Customer No. 21186 was revoked by the assignee of the patent application on April 17, 2006. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

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

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

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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www.uspto.gov

THE SONI LAW FIRM
55 S. LAKE AVE SUITE 720
PASADENA CA 91101

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APR 1 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Dilip Bhavnani	:	
Application No. 11/012,392	:	DECISION ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. SS 203U	:	

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**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before June 11, 2007, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed March 9, 2007. Accordingly, the date of abandonment of this application is July 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700, the publication fee of $300, and corrected formal drawings , (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

The drawings have been approved by the USPTO draftsperson.

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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May 25, 2007

Patent No. : 7017418 B1
Ser. No. : 11/012417
Inventor(s) : Thakre, et al.
Issued : Mar. 28, 2006
Title : **SYSTEM AND METHOD FOR SENSING PRESSURE**
Docket No. : 153945-1/YOD

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.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

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

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

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

Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston TX 77269-2289

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,017,418
Patented: March 28, 2006

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

Parag Thakre; Shankar Chandrasekaran; Kuna Venkat Satya Rama Kishore; Russell Williams Craddock; Kanakasabapathi Subramanian.

Hezron Williams
Supervisory Patent Examiner
Art Unit 2856

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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PCE INDUSTRY, INC.
ATT. Steven Reiss
288 SOUTH MAYO AVENUE
CITY OF INDUSTRY, CA 91789

Mail Date: 04/21/2010

Applicant	: Ching-Hsing Huang	: DECISION ON REQUEST FOR
Patent Number	: 7625122	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,420	: 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 **1023** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NEW YORK NY 10112-4498

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OFFICE OF PETITIONS

In re Patent No. 7,228,962	:	
Issued: June 12, 2004	:	
Application No. 11/012,429	:	NOTICE
Filed: December 15, 2004	:	
Attorney Docket No. A36166-072841.0237	:	

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 04/21/2010

Applicant	: Geng Zhang	: DECISION ON REQUEST FOR
Patent Number	: 7587240	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,433	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **465** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HOLLINGSWORTH & FUNK
8500 Normandale Lake Blvd
SUITE 320
MINNEAPOLIS, MN 55437

Mail Date: 05/18/2010

Applicant : Geng Zhang
Patent Number : 7587240
Issue Date : 09/08/2009
Application No : 11/012,433
Filed : 12/15/2004

: 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 **512** 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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IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND TX 77478

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OFFICE OF PETITIONS

In re Application of	:	
Yiyan Chen et al	:	
Application No. 11/012,446	:	DECISION DISMISSING PETITIONS
Filed: December 15, 2004	:	UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. 56.0825	:	

This is a decision on the petition filed December 2, 2005, 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 priority to the prior-filed nonprovisional and provisional 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) and 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 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional where there is a question whether the delay was unintentional.

The 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 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each nonprovisional parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent nonprovisional application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment states that "this application is a Continuation in Part of prior copending application serial number 11/012,446, filed December 15, 2004," which is the application number of the instant application. Clarification is required.

Before the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet or a substitute amendment to correct the above matter 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

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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OFFICE OF PETITIONS

In re Application of	:	
Yiyan Chen et al	:	
Application No. 11/012,446	:	DECISION ON PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 56.0825	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed August 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119 for the benefit of priority to the prior-filed provisional 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)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. § 119 and 37 CFR 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)(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.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119 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 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 and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. 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 1712 for appropriate action on the amendment filed August 28, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 119 to the prior-filed application.

Karen Creasy

Karen Creasy
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
11/012,446	12/15/2004	1712	1400	56.0825	5	28	3

CONFIRMATION NO. 9044
CORRECTED FILING RECEIPT
OC000000021900655
OC000000021900655

27452
SCHLUMBERGER TECHNOLOGY CORPORATION
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND, TX 77478

Date Mailed: 01/09/2007

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

Applicant(s)

Yiyan Chen, Richmond, TX;
Jesse C. Lee, Sugar Land, TX;
Philip F. Sullivan, Bellaire, TX;
Timothy L. Pope, Sugar Land, TX;

Power of Attorney: The patent practitioners associated with Customer Number **27452**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/538,025 01/21/2004

Foreign Applications

If Required, Foreign Filing License Granted: 01/08/2007

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/012,446

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Viscoelastic surfactant rheology modification

Preliminary Class

507

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

Mail Date: 04/21/2010

Applicant	: Kyoko Izuha	: DECISION ON REQUEST FOR
Patent Number	: 7571417	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1263** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BELL, BOYD & LLOYD LLP
P.O. Box 1135
CHICAGO, IL 60690

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JUL 27 2007

OFFICE OF PETITIONS

In re Application of
Federici, et al.
Application No.: 11/012,509
Filed: December 14, 2004
Attorney Docket No:112701-562

ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), July 12, 2007, to revive the above-identified application.

The petition is **dismissed without prejudice**.

A review of the application file history reveals that a final Office action was mailed on January 11, 2007, allowing a shortened statutory period for response of three months from its mailing date. Extension of the time set for reply were available pursuant to 37 CFR 1.136. On July 11, 2007, applicant filed an amendment that is intended to be responsive to the final Office action and a request for an extension of time within the third month. On July 12, 2007, petitioner filed the instant petition and a request for continued examination under 37 CFR 1.114.

At present, the subject application is not abandoned because a timely response to the final Office action was filed on July 11, 2007, with a request for an extension of time within the third month. It does not appear that the Examiner Maier has reviewed the amendment filed July 11, 2007. The application is not yet abandoned because Examiner Maier has not determined whether the amendment places the application in condition for allowance. The petition under 37 CFR 1.137(b) must be dismissed as moot because the application is not yet abandoned and the petition under 37 CFR 1.137(b) is only appropriate when an applicant is seeking to revive an abandoned application.

The application file is being returned to Technology Center 1600, GAU 1623 so that Examiner Maier can review the amendment filed July 11, 2007. If the amendment fails to place the application in condition for allowance, petitioner may file a renewed petition under 37 CFR 1.137(b) at which point the request for continued examination filed July 12, 2007, will be considered the response required by 37 CFR 1.137(b). No additional fees will be required.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
SUITE 1100
777 - 6TH STREET, NW
WASHINGTON, DC 20001

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NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Bryce K. Hesterman	:	
Application No. 11/012,511	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. ADEN-018/00US/011028-2021	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed July 6, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Cooley Godward Kronish, LLP has been revoked by the assignee of the patent application on July 24, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: NEUGEBOREN LAW FIRM, PC
1035 PEARL STREET
SUITE 400
BOULDER, CO 80302

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

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Alan L. Billings	: DECISION ON REQUEST FOR
Patent Number	: 7575659	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,512	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1075** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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SEP 2 5 2008

OFFICE OF PETITIONS

In re Application of	:	
SCHEDIVY, George C.	:	
Application No. 11/012,524	:	DECISION GRANTING PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 8002A-104	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 23, 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 9, 2008 *cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*[1]

Telephone inquiries 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.*

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

VIKSNINS HARRIS & PADYS PLLP
P.O. BOX 111098
ST. PAUL MN 55111-1098

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AUG 29 2008

In re Patent No. 7,115,719 :
Issued: October 3, 2006 :
Application No. 11/012,527 : NOTICE
Filed: December 15, 2004 :
Atty Docket No. 17094.006US1 :

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

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

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

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

Inquiries related to this communication should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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GEORGE M. STERES
20200 PIERCE RD
SARATOGA, CA 95070

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SEP 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Sajit Bhaskaran et al	:	
Application No. 11/012,554	:	DECISION ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. ASPN001	:	

This is a decision on the petition, filed June 8, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

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

This application was held abandoned for failure to reply to the Notice of Drawing Inconsistency with Specification (Notice) mailed January 23, 2009, which set a one (1) month period for reply. A Notice of Abandonment was mailed on May 5, 2009.

The petition received on June 8, 2009 (certificate of transmission by facsimile June 6, 2009) is not signed. This petition can not be treated until a proper signature is received.

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

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

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

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

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

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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GEORGE M. STERES
20200 PIERCE RD
SARATOGA, CA 95070

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SEP 18 2009

OFFICE OF PETITIONS

In re Application of :
Sajit Bhaskaran et al :
Application No. 11/012,554 : DECISION ON PETITION
Filed: December 14, 2004 :
Attorney Docket No. ASPN001 :

This is a decision on the petition, filed September 14, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice of Drawing Inconsistency with Specification (Notice) mailed January 23, 2009, which set a one (1) month period for reply. A Notice of Abandonment was mailed on May 5, 2009.

Petitioner asserts that the Notice mailed January 23, 2009 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 had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 2419 for re-mailing the Notice of January 23, 2009. The period for reply will run from the mailing date of the Notice.

Irvin Dingle
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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JAN 20 2006

OFFICE OF PETITIONS

LAW OFFICES OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON, AZ 85728-4775

In re Application of	:	
John A. Harlacker	:	
Application No. 11/012,562	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. HAR-001	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 15, 2004 and resubmitted on December 19, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **DISMISSED**.

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 by Timothy M. Barlow on behalf of John A. Harlacker, stating that the inventor is over 65 years of age. Timothy M. Barlow is not the applicant and the petition does not include evidence of age.

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 Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center Art Unit 3765 for action in its regular turn.

for
David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF TIMOTHY M. BARLOW
P.O. BOX 64775
TUCSON, AZ 85728-4775

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MAR 14 2006

OFFICE OF PETITIONS

In re Application of	:	
John A. Harlacker	:	DECISION ON PETITION
Application No. 11/012,562	:	TO MAKE SPECIAL UNDER
Filed: December 15, 2004	:	37 CFR 1.102(c)(1)
Attorney Docket No. HAR-001	:	

This is a decision on the renewed petition under 37 CFR 1.102(c)(1), filed February 8, 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 petition includes a statement by John A. Harlacker attesting 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 Wan Laymon at 571-272-3220.

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

This matter is being referred to Technology Center AU 3765 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

MURAMATSU & ASSOCIATES
SUITE 310
114 PACIFICA
IRVINE CA 92618

In re Application of	:	
Chiba et al.	:	
Application Number: 11/012564	:	ON PETITION
Filing Date: 12/15/2004	:	
Attorney Docket Number:	:	
NAKAKURA.028AUS	:	

This is a decision on the petition, filed on May 11, 2009, to withdraw the holding of abandonment.

The petition is **GRANTED**.

This application was held abandoned on March 4, 2009, for failure to timely file corrected drawings in response to the Notice of Allowability mailed on December 3, 2008, which set a three (3)-month statutory period for reply. Notice of Abandonment was mailed on March 31, 2009.

Petitioners assert that no corrected drawings were actually required, and that the indication on the Notice of Allowability that corrected drawings were required was an Office error.

Petitioners are correct. Upon review, it has been determined that the box indicating that corrected drawings are required was mischecked at the time of the mailing of the Notice of Allowability, and that no new drawings were actually required.

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

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

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MARTIN J. MORAN
EATON ELECTRICAL, INC.
TECHNOLOGY & QUALITY CENTER
170 INDUSTRY DRIVE, RIDC PARK WEST
PITTSBURGH PA 15275-1032

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OFFICE OF PETITIONS

In re Application of	:	
Jeffrey Lee Johnson	:	DECISION ON PETITION TO
Application No. 11/012,578	:	WITHDRAW HOLDING OF
Filed: 15 December, 2004	:	ABANDONMENT
Attorney Docket No. 04-EDP-098	:	

This is a decision on the petition filed on 5 October, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit the issue and publication fees in response to the Notice of Allowance and Fee(s) Due mailed on 16 May, 2006, which set a three (3) month statutory period for reply. Notice of Abandonment was mailed on 20 September, 2006.

Petitioner asserts that the Notice mailed on 16 May, 2006, was never received.

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

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

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

In support of the petition, the petitioner's counsel, registered patent attorney Martin J. Moran, asserts that a search of the case jacket was made, but that the Notice was not received. Additionally, a copy of the docket report where the Notice would have been docketed and entered had it been received has been provided and has been referenced in the practitioner's statement.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the holding of abandonment is withdrawn.

The petition is **GRANTED.**

The application file is being referred to the Technology Center's Technical Support Staff for remailing of the Notices of Allowance and Allowability. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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AUG 09 2006

OFFICE OF PETITIONS

In re Application of	:	
Michel Koopmans	:	
Application No. 11/012,584	:	
Filed: December 14, 2004	:	DECISION ON
Attorney Docket Number: 108298682US1	:	PETITION

This is a decision in response to the Petition to Withdraw Holding of Abandonment based on Failure to Receive office Action, filed May 24, 2006. The petition is properly treated under 37 CFR 1.181(a).

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly respond to the non-final Office action, mailed October 31, 2005. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on February 1, 2006. A Notice of Abandonment was mailed May 15, 2006.

With the instant petition, Petitioner has demonstrated non-receipt of the Notice by a preponderance of the evidence.

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

No fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 1725 for re-mailing of the Office action.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No. 031006

MAR 21 2006

MADSON & AUSTIN
GATEWAY TOWER WEST
SUITE 900
15 WEST SOUTH TEMPLE
SALT LAKE CITY, UT 84101

In re Application of:
Shane R. Robbins, et al.
Serial No.: 11/012,591
Filed: December 15, 2004

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 December 22, 2005, 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 Lynn Feild at (571) 272-2092.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 19 2008

OFFICE OF PETITIONS

JOSEPH BAKER
GAVRILOVICH, DODD & LINDSEY, LLP
8052 AVENIDA SECRETO
CARLSBAD, CA 92009

In re Application of	:	
Elena Maria Medo	:	
Application No. 11/012,611	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 38454-007C1	:	FROM RECORD

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

The request is **NOT APPROVED**.

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ERICH E. VEITENHEIMER, PH.D.
COOLEY GODWARD KRONISH, LLP
777 6TH STREET NW
SUITE 1100
WASHINGTON, DC 20001

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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WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO, IL 60606

FAX RECEIVED
MAY 26 2005
OFFICE OF PETITIONS

In re Application of :
Cregg, et al. :
Application No. 11/012,616 : ON PETITION
Filed: December 15, 2004 :
Attorney Docket No. 93433 :

This is a decision on the petition under 37 CFR 1.10(d), filed April 27, 2005, requesting that the above-identified provisional application be accorded a filing date of December 15, 2004, rather than the presently accorded filing date of December 16, 2004.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the provisional application was purportedly deposited in Express Mail service (Express Mail mailing label no. EV328322009US) on December 15, 2004, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail mailing label identified in the original application papers indicates a "date-in" of December 16, 2004. Applicants allege that the date of mailing indicated by the Express Mail mailing label is a U.S. Postal Service (USPS) error and the correct date of mailing is December 15, 2004.

In support, the petition is accompanied by a copy of the "USPS Track/Confirm Intranet Inquiry" that indicates the item with Express Mail label no. EV328322009US was placed into Express Mail service on December 15, 2004.

In view of the evidence present in the file, it is concluded that the "date-in" indicated on the Express Mail mailing label is incorrect and that the correct date of deposit in Express Mail service is December 15, 2004

Accordingly, the application is entitled to a filing date of December 15, 2004.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 15, 2004 and the mailing 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
United States Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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CHICAGO, IL 60606

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Cregg, et al. :
Application No. 11/012,616 : ON PETITION
Filed: December 15, 2004 :
Attorney Docket No. 93433 :

This is a decision on the petition under 37 CFR 1.10(d), filed April 27, 2005, requesting that the above-identified nonprovisional application be accorded a filing date of December 15, 2004, rather than the presently accorded filing date of December 16, 2004. The decision mailed May 26, 2005 is hereby vacated and replaced by the instant decision.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the nonprovisional application was purportedly deposited in Express Mail service (Express Mail mailing label no. EV328322009US) on December 15, 2004, pursuant to the requirements of 37 CFR 1.10. However, the Express Mail mailing label identified in the original application papers indicates a "date-in" of December 16, 2004. Applicants allege that the date of mailing indicated by the Express Mail mailing label is a U.S. Postal Service (USPS) error and the correct date of mailing is December 15, 2004.

In support, the petition is accompanied by a copy of the "USPS Track/Confirm Intranet Inquiry" that indicates the item with Express Mail label no. EV328322009US was placed into Express Mail service on December 15, 2004.

In view of the evidence present in the file, it is concluded that the "date-in" indicated on the Express Mail mailing label is incorrect and that the correct date of deposit in Express Mail service is December 15, 2004.

Accordingly, the application is entitled to a filing date of December 15, 2004.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 15, 2004 and the mailing 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
United States Patent and Trademark Office

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Paper No.

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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OFFICE OF PETITIONS

In re Application of :
Raymond Helferty : DECISION ON PETITION
Application No. 11/012,656 :
Filed: December 15, 2004 :
Attorney Docket No. 65765-0036:

This is a decision on the PETITION FOR WITHDRAWAL OF HOLDING OF ABANDONMENT filed September 2, 2008.

For the reasons stated herein, 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, petitioner is not precluded from seeking revival of the application pursuant to the provisions of 37 CFR 1.137. However, the filing of such a petition should not be intentionally delayed. An intentional delay in filing of the petition will lead to the dismissal of the petition regardless of the original circumstances that led to the abandonment of the application.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, March 25, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. An issue fee transmittal was received on September 2, 2008; however, this was outside the three month nonextendable statutory period for reply. The issue and publication fee not timely received, the above-identified

application became abandoned effective June 26, 2008. A courtesy Notice of Abandonment was mailed on July 25, 2008.

In response, applicant timely filed the instant petition. Applicant argues that a supplemental Notice of Allowability was mailed on May 14, 2008 and the issue fee and publication fee were timely paid within three months on August 14, 2008. Applicant states that they confirmed with the examiner that the notice of allowability provided for three additional months to pay the issue fee and publication fee.

The law, 35 U.S.C. 151, provides that:

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

Pursuant to 35 U.S.C. 151, the Office must regard the application as abandoned upon failure of the applicants to timely pay the issue fee within three months of the mailing of the notice of allowance. The subsequent mailing of a supplemental notice of allowability did not suspend or affect the statutory period set forth in the notice of allowance. The issue fee and publication fee were not paid within the statutory period set forth in the notice of allowance mailed March 25, 2008. On these facts, withdrawal of the holding of abandonment is not warranted.

Applicant is not precluded from filing a petition to revive pursuant to 37 CFR 1.137. On instant petition, applicant authorizes payment of any necessary fee. This authorization could be deemed to be sufficient to authorize payment of the fee on petition to revive under 37 CFR 1.137. However, payment of the fee alone is not sufficient. A grantable petition under 37 CFR 1.137(b) must include the required statement of unintentional delay. Accordingly, if applicant wishes to seek revival of this application, applicant should expressly file any

petition under 37 CFR 1.137, satisfying all of the requirements of 37 CFR 1.137.

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

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

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Paper No.

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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OFFICE OF PETITIONS

In re Application of :
Raymond Helferty : DECISION ON PETITION
Application No. 11/012,656 :
Filed: December 15, 2004 :
Attorney Docket No. 65765-0036:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed April 9, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, March 25, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. An issue fee transmittal was received on September 2, 2008; however, this was outside the three month nonextendable statutory period for reply. The issue and publication fee not timely received, the above-identified application became abandoned effective June 26, 2008. A courtesy Notice of Abandonment was mailed on July 25, 2008.

By decision mailed March 5, 2009, a prior petition to withdraw the holding of abandonment filed September 2, 2008 was dismissed.

Applicant has now filed a petition to revive pursuant to 37 CFR 1.137. The required reply in the form of payment of the issue fee and publication fee were previously submitted on August 14, 2008. (The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.) The

petition includes the petition fee 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.

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Law Offices of John Chupa & Associates, P.C.
Suite 50
28535 Orchard Lake
Farmington Hills, MI 48334

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APR 20 2005

OFFICE OF PETITIONS

In re Application of :
Van Daele Stephen Mabrito :
Application No. 11/012,657 : DECISION GRANTING PETITION
Filed: December 15, 2004 :
Attorney Docket No. 162-006 :

This is a decision on the petition filed March 21, 2005, requesting that the above-identified application be accorded a filing date of December 15, 2004.

On December 15, 2004, the above-identified application was filed. On March 15, 2005, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" (the "Notice"), stating that the application had not been accorded a filing date because drawings were not deposited with application but appeared to be required for the understanding of the invention claimed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice.

In response, on March 21, 2005, applicants filed the present petition and argued that drawings were not necessary for the understanding of the invention claimed.

It has been determined that drawings are not necessary for the understanding of the invention claimed. The application is, therefore, entitled to a filing date of December 15, 2004. It is noted that drawings were filed on March 18, 2005. Petitioner must file an amendment requesting entry of the drawings; the drawings will not be considered part of the original disclosure.

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 15, 2004, using only the application papers filed on that date. The Office of Initial Patent Examination is directed to issue a filing receipt noting a filing date of December 15, 2004.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

KAMMER BROWNING PLLC
7700 BROADWAY, SUITE 202
SAN ANTONIO TX 78209

In re Application of
Van Daele Stephen Mabrito
Application No. 11/012,657
Filed: December 15, 2004
Attorney Docket No.: **1221.02**

ON PETITION

This is a decision on the petition filed September 5, 2009 under 37 CFR 1.137(b),[1] to revive the above-identified application. The petition is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

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

This application became abandoned for failure to timely reply to the non-Final Office Action mailed January 9, 2008. A shortened statutory period of three months was set for replying to the non-Final Office Action. Accordingly, a Notice of Abandonment was mailed July 17, 2008.

A review of the record reveals however that the response to the non-Final Office Action and a three month extension of time were received on July 17, 2009 with a certificate of mail dated July 9, 2009. In view thereof, the response was timely filed.

Petitioner's credit card has been credited in the amount of $810 for the petition fee since the holding of abandonment has been withdrawn and treatment of the petition to revive is unnecessary.

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

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

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

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

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

This matter is being referred to Technology Center 3629 for appropriate action on the amendment filed July 17, 2009 with a certificate of mail dated July 9, 2009.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Boston Scientific Corporation
c/o Frommer Lawrence & Haug LLP
745 Fifth Avenue
New York, NY 10151

Mail Date: 04/21/2010

Applicant	: Richard Romley	: DECISION ON REQUEST FOR
Patent Number	: 7621874	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,663	: 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 **946** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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3603 CHAIN BRIDGE ROAD
SUITE E
FAIRFAX, VA 22030

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OFFICE OF PETITIONS

In re Application of :
Nordman, et al. :
Application No. 11/012,664 :
Filed: December 15, 2004 :
Attorney Docket No. 5010-003-06

ON PETITION

This is a decision on the petition under 37 CFR 1.181 filed on November 14, 2006, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The application became abandoned on April 26, 2006, after no response was received to the non-final Office action mailed January 25, 2006, which set a shortened statutory period for reply of three-months from its mailing date. No response was received within the allowable period, and the application became abandoned on April 26, 2006. A Notice of Abandonment was mailed on September 11, 2006

In the instant petition, petitioner maintains that the non-final Office action was never received.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> [t]he showing requires to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Although petitioner has offered a statement that petitioner's records where searched, but the Office communication was not found, petitioner did not provide a copy of petitioner's logs showing where the Office communication would have been entered if it had been received. If petitioner does not keep a log, petitioner may file a copy of the contents of the incoming correspondence petitioner has received for this application. Petitioner may also file a copy of

any calendar notations petitioner maintains relative to this patent application that may corroborate petitioner's allegation that the notice was not received. This documentation must accompany any renewed petition filed under 37 CFR 1.181(a).

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,500.00 for a large entity and $750.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

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

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

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of

Nordman et al.

Application No. 11/012,664

Filed: December 15, 2004

Attorney Docket No. 5010-003-06

DECISION ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed February 20, 2007.

The petition is **granted**.

This application was held abandoned April 26, 2006, after no reply was received to the non-final Office action mailed January 25, 2006. 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 April 26, 2006. A Notice of Abandonment was mailed September 11, 2006. A petition under 37 CFR 1.181 was filed on November 14, 2006, and dismissed by a decision mailed January 18, 2007. The instant renewed petition was filed on February 20, 2007. Petitioner maintains that the notice of January 25, 2006, 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 Center 2800, GAU 2877 for further processing that may include remailing the non-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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United States Patent and Trademark Office
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SMITH PATENT OFFICE
1901 PENNSYLVANIA AVENUE N W
SUITE 901
WASHINGTON, DC 20006

Mail Date: 07/16/2010

Applicant	: Naofumi Sumitani	: DECISION ON REQUEST FOR
Patent Number	: 7656083	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,666	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **786** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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S. C. Johnson & Son, Inc.
1525 Howe Street, MS 077
Racine, WI 53403-2236

September 2, 2009

In re Application of: Joel E. Adair, *et al.*

Application No.: 11/012707
Filed: **12/15/2004**

Title: *HEAT EXCHANGE METHOD FOR MELTING PLATE CANDLE*

DECISION ON PETITION TO CORRECT INVENTORSHIP
under 37 C.F.R. § 1.48

This is a decision on the petition filed on November 02, 2006 to correct the inventorship, and add Paul E, Furner; Elizabeth J. Jameson; Chris A. Kub|cek.; and Sean G, Dwyer as inventors. The petition was reviewed under 37 C.F.R. § 1.48(a).

The petition to correct the inventorship is APPROVED.

In view of the papers filed 11/7/06, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of inventors Paul E, Furner; Elizabeth J. Jameson; Chris A. Kub|cek.; and Sean G, Dwyer.

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

Kenneth Rinehart, Supervisory Patent Examiner
Art Unit 3743

UNITED STATES PATENT AND TRADEMARK OFFICE

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S.C. JOHNSON & SON, INC.
1525 HOWE STREET
RACINE, WI 53403-2236

Mail Date: 04/20/2010

Applicant	: Joel E. Adair	: DECISION ON REQUEST FOR
Patent Number	: 7607915	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,707	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **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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MORGAN LEWIS & BOCKIUS LLP
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OFFICE OF PETITIONS

In re Application of
Lee
Application No. 11/012,714
Filed: December 16, 2004
Attorney Docket No. 053785-5241
For: LIQUID CRYSTAL DISPLAY DEVICE AND METHOD OF FABRICATING THE SAME

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed June 9, 2005.

The petition is granted.

Petitioner has shown that the non-signing inventor, Yun-Bok Lee, cannot be located. Specifically, the declaration/statement of facts of Ji-Yun Lee, Assistant Manager, Neit International Patent & Law Firm, establishes that a mailing, telephone calls, e-mails, contacting a former co-worker, and Internet searches failed to uncover Mr. Lee's current whereabouts. In addition, petitioner has shown that L.G. Philips LCD Co., Ltd. has a proprietary interest in the above-identified application with a copy and translation of an assignment document. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 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 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

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

After this decision is mailed, the above-identified application will be forwarded to Technology Center GAU 2871 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

YUN-BOK LEE
10/5, 43-8, DAEHEUNG-DONG, MAPO-GU
SEOUL, 121-809
KOREA

COPY MAILED

JUN 30 2005

OFFICE OF PETITIONS

In re Application of
Lee
Application No. 11/012,714
Filed: December 16, 2004
Attorney Docket No. 053785-5241
For: LIQUID CRYSTAL DISPLAY DEVICE AND METHOD OF FABRICATING THE SAME

LETTER

Dear Mr. Lee:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR **1.47(b),** Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole inventor.

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MORGAN LEWIS & BOCKIUS LLP
1111 PENNSYLVANIA AVENUE NW
WASHINGTON DC 20004

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OCT 23 2007

OFFICE OF PETITIONS

In re Application of :
HOPPE, Holger :
Application No. 11/012,715 :
Filed: December 16, 2004 :
Attorney Docket No. **QIM 2003 P 54505 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 May 2, 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 September 11, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **SLATER & MATSIL LLP**
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

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

MAILED

JUN 25 2010

OFFICE OF PETITIONS

In re Application of	:	
Stefan BRUHN	:	
Application No. 11/012,717	:	DECISION GRANTING PETITION
Filed: December 16, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2380-1315**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 24, 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 May 14, 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 the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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

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

Date Mailed: May 23, 2008
Patent No. :7,309,143 B2
Ser. No. :11/012738
Inventor(s) :Yoshiki, Takata
Issued :December 18, 2007
Title: OPTICAL MATERIAL, OPTICAL ELEMENT, ILLUMINATOR AND DISPLAY DEVICE

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Sharp, Kabushiki, Kaisha
C/O Leatomg & Bennett, LLP
8180 Greensboro Drive, Ste. 850
McLean, VA 22102

MD/mt

UNITED STATES PATENT AND TRADEMARK OFFICE

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SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston VA 20191

COPY MAILED

NOV 1 8 2008

OFFICE OF PETITIONS

In re Patent No. 7,309,738	:	
Issue Date: December 18, 2007	:	
Application No. 11/012,738	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. 70404.36/OK	:	

This is a decision on the petition filed June 23, 2008, which isbeing treated as a request under 37 CFR 3.81(b)[1] to amend the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston VA 20191

MAILED

JUN 05 2009

OFFICE OF PETITIONS

In re Patent No. 7,309,143	:	
Issue Date: December 18, 2007	:	CORRECTED
Application No. 11/012,738		DECISION
Filed: December 15, 2004	:	ON PETITION
Attorney Docket No. 70404.36/OK	:	
	:	

This is a corrected decision on the petition filed June 23, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to amend the name of an assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The Decision mailed November 18, 2008 misidentified the patent number in the heading of the decision.

Telephone inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

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

Carl Friedman
Petitions Examiner
Office of Petitions

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

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BRETT J. TROUT, PC
516 WALNUT
DES MOINES IA 50309

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APR 12 2007
OFFICE OF PETITIONS

In re Application of :
Patrick L. Wempe et al :
Application No. 11/012,746 : DECISION GRANTING PETITION
Filed: December 15, 2004 : UNDER 37 CFR 1.137(b)
For: PORTABLE FLUID DELIVERY SYSTEM :

This is a decision on the petition under 37 CFR 1.137(b), filed December 7, 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 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 July 28, 2006, is accepted as having been unintentionally delayed.

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

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Squire, Sanders & Dempsey L.L.P.
Oracle International Corporation
8000 Towers Crescent Drive
14th Floor
Vienna, VA 22182

Mail Date: 04/20/2010

Applicant	: Ross T. Bunker	: DECISION ON REQUEST FOR
Patent Number	: 7627866	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,767	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **914** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Squire, Sanders & Dempsey L.L.P.
Oracle International Corporation
8000 Towers Crescent Drive
14th Floor
Vienna, VA 22182

Mail Date: 05/17/2010

Applicant : Ross T. Bunker
Patent Number : 7627866
Issue Date : 12/01/2009
Application No : 11/012,767
Filed : 12/15/2004

: 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 **963** 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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ARNOLD & PORTER LLP
ATTN: IP DOCKETING DEPT.
555 TWELFTH STREET, N.W.
WASHINGTON, DC 20004-1206

Mail Date: 04/20/2010

Applicant	: Joshua M. Hare	: DECISION ON REQUEST FOR
Patent Number	: 7592138	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,778	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **808** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OFFICE OF PETITIONS

In re Application of	:	
Miller et al.	:	DECISION ON PETITION
Application No. 11/012,780	:	TO WITHDRAW
Filed: December 14, 2004	:	FROM RECORD
Attorney Docket No. 101014.0001US4	:	

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 12th and 16th, 2009, which is being treated as a request to withdraw from employment in a proceeding before the Office under 37 C.F.R. § 10.40.

The request is **DISMISSED**.

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

The request to change the correspondence address of record is not accepted in view of Mr. Sayed not having power of attorney. See MPEP §§ 601.03 and 405. Therefore, all future communications from the Office will continue to be directed solely to the address of record until proper instructions have been received.

Currently, a Notice of Appeal was filed in the above-identified application on April 9, 2009.

Telephone inquires concerning this decision should be directed to Petitions Examiner Joan Olszewski at 571-272-7751.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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

Mail Date: 04/26/2010

Applicant	: Jan Dostert	: DECISION ON REQUEST FOR
Patent Number	: 7600217	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,803	: 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 **265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CONOCOPHILLIPS COMPANY
I. P. LEGAL
P.O. BOX 2443
BARTLESVILLE OK 74005

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OFFICE OF PETITIONS

In re Application of	:	
Gray et al.	:	
Application Number: 11/012811	:	DECISION ON PETITION
Filing Date: 12/15/2004	:	
For: ALKYLATION PROCESS WITH	:	
SETTLER EFFLUENT RECYCLE	:	

This is a decision on the petition filed on November 9, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on June 2, 2007, for failure to file a timely and proper reply to the final Office action mailed on March 1, 2007, which set a three (3) month shortened statutory period for reply. An amendment after final rejection was filed on April 27, 2007. On October 17, 2007, an Advisory Action Before the Filing of an Appeal Brief was mailed, stating that the reply filed on April 27, 2007, fails to place the application in condition for allowance. The filing of the present petition precedes the mailing of Notice of Abandonment.

---

[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)).

Petitioners have filed a Request for Continued Examination (RCE) and an amendment as the submission required under 37 CFR 1.114.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[2] The three (3)-month extension request filed on November 9, 2007, was submitted more than three (3) months after the end of the period for reply to the final Office action mailed on March 1, 2007, and therefore is unnecessary. The extension of time fee paid on November 9, 2007, will be credited to counsel's deposit account as authorized.

This application is being referred to Technology Center Art Unit 1797 for further processing.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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[2] See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 30, 2010

TO SPE OF : ART UNIT 3623

SUBJECT : Request for Certificate of Correction for Appl. No.: 11012812
Patent No.: 7601161

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 – 9D40-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

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: _____

BVBoswell — **SPE**

3623 — **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/09/08

TO SPE OF : ART UNIT 3700

SUBJECT : Request for Certificate of Correction for Appl. No.: **11012833** Patent No.: **7276022**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

ANGELA D. SYKES
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3762
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

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/012,833	12/14/2004	Lilip Lau	PARCR 69839	9641

24201 7590 05/21/2008
FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

EXAMINER
GETZOW, SCOTT M

ART UNIT	PAPER NUMBER
3762	

MAIL DATE	DELIVERY MODE
05/21/2008	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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20080410

DATE : April 12, 2008

TO SPE OF : ART UNIT 3762

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:

SPE: /Angela Sykes/ Art Unit 3762

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUTHERLAND ASBILL & BRENNAN
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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JUN 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Cesario V. Borlongan et al	:	
Application No. 11/012,849	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. 20657-0070	:	FROM RECORD
	:	

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 13, 2005.[1]

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

A review of the file record indicates that the power of attorney to William L. Warren and all the attorneys/agents of record associated with customer No. 29052 have been revoked by the assignee of the patent application on June 28, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

This application is being referred to Technology Center AU 1649.

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: SMITH HOPEN, PA
180 PINE AVENUE NORTH
OLDSMAR, FL 34677

---

[1] The instant request was only recently brought to the attention of the deciding official. The Office sincerely apologizes for the delay in responding to the instant petition and the inconvenience caused petitioner by this delay.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Tomihisa Kato et al :
Application No. 11/012,865 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. 049400-5032

This is a decision on the petition, filed March 12, 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 February 22, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 3731 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JAN 13 2009

In re Application of	:	
John B. Simpson, et al.	:	
Application No. 11/012,876	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 018489-002551US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed October 14, 2008.

The request is **NOT APPROVED**.

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

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

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

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

cc: POPVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

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
11/012,876	12/14/2004	John B. Simpson	004-002

CONFIRMATION NO. 5949

POA ACCEPTANCE LETTER

9561
POPOVICH, WILES & O'CONNELL, PA
650 THIRD AVENUE SOUTH
SUITE 600
MINNEAPOLIS, MN 55402

OC000000033869531

Date Mailed: 01/05/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/23/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/atesfai/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SMART AND BIGGAR
438 UNIVERSITY AVENUE
SUITE 1500 BOX 111
TORONTO ON M5G2K-8 CA CANADA

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AUG 25 2006
OFFICE OF PETITIONS

In re Application of	:
Senarath, et al.	: DECISION ON PETITION
Application No. 11/012,898	:
Filed: December 16, 2004	:
Docket No.: 91436-414	:

The above-identified application has been referred to the Office of Petitions for consideration of the "REQUEST TO CHANGE THE INVENTOR'S NAME," filed June 16, 2006.

The petition is **DISMISSED AS MOOT**.

Applicants indicate that the third inventor's surname was misspelled in the original declaration filed in the instant application for patent. Applicants have submitted a new declaration by the third inventor indicating the correct spelling of the inventor's surname and duly signed by this third inventor.

Where a typographical or transliteration error in the spelling of an inventor 's name is discovered, the Office should simply be notified of the error. A new oath or declaration is not required. *See*, MPEP 605.04(g). Reference to the notification will be made on the previously filed oath or declaration.

Accordingly, the declaration submitted herewith will remain in the application file, but will not be entered into the record.

This application is being forwarded to Technology Center 2600 for entry of the correction in the PALM database and printing of a new PALM bib-data sheet for placement in the Image File Wrapper.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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JAN 23 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
M. Kivanc Mihcak, et al. :
Application No.: 11/012,916 :
Filed: December 15, 2004 :
Attorney Docket No.: MS1-792USC6 :

This is a decision on the petition, filed January 21, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 19, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2132 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

In re Application of	:	
M. Kivanc Mihcak, et al.	:	
Application No.: 11/012,922	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No.: MS1-792USC5	:	

This is a decision on the petition, filed January 21, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 19, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

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

The application is being referred to Technology Center AU 2132 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

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

In re Application of
WEN
Application No. 11/012,924
Filed: December 14, 2004
Attorney Docket No. 584682001600

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record who are associated with customer No. 25226. All attorneys/agents associated with the Customer Number 25226 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 571-2727-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **WEN HUAFENG**
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

cc: **TOM COUNTS**
PAUL HASTINGS
55 SECOND STREET, 20TH FLOOR
SAN FRANCISCO, CA 94105

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
11/012,924	12/14/2004	Huafeng Wen	584682001600

CONFIRMATION NO. 1221

OC000000021845392

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 01/05/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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JJGJr : 11-07

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OFFICE OF PETITIONS

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

In re Application of	:	
Huang, et al.	:	
Application No. 11/012,944	:	DECISION
Filed: 14 December, 2004	:	
Attorney Docket No. 14963-47936	:	

This is a decision on the petition filed on 12 September, 2007, to revive an application under 37 C.F.R. §1.137(a) as having been abandoned due to unavoidable delay.

The Revocation/Power of Attorney filed herein with a certificate pursuant to 37 C.F.R. §3.73(b) on 12 September, 2007, is acknowledged and made of record.[1]

The petition as considered under 37 C.F.R. §1.137(a) is **DISMISSED**.

NOTES:

1. Petitioner Wei-Te Chung (Reg. No. 43,325), newly appointed Counsel herein, complains that the Office "failed to handle this reply in a timely manner after [his] reply had been deposited in the Office and the holding of abandonment was caused due to that failure of the Office. Applicant obviously has been forced to abandon the *** application unavoidably, i.e. due to the failure of the Office." (Emphasis supplied.)

   Petitioner would do well to refer to the extensive discussions throughout the Manual of Patent Examining Procedure (MPEP)—in particular the guidance in the Commentary at MPEP §714.13—as to the responsibility of the Applicant to

[1] See: (Generally) MPEP §400.

attend to prosecution with not only a timely reply but also a proper reply to a final Office action.

Petitioner—certainly not the Office—now twice has filed an after-final amendment that failed to place *prima facie* the application in condition for allowance.

Had Petitioner filed instead at the outset a proper reply in the form of a Notice of Appeal (with fee), or a request for continued examination (RCE) with fee and submission under 37 C.F.R. §1.114, or an amendment that indeed did *prima facie* place the application in condition for allowance, the application quite simply would not have gone abandoned.

Thus, the application clearly went abandoned herein due not to action or inaction of the Office, but due to Applicant's failure to act timely and properly under statutes, regulations and within the policy of the Office as set forth in great detail in the guidance of the Commentary in the MPEP.

2. Any petition (and fee) for reconsideration of this decision must be submitted within two (2) months from the mail date of this decision.

3. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

4. Thereafter, there will be no further reconsideration of this matter.[2]

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a final Office action mailed on 28 December, 2006, with reply due absent extension of time on or before 28 March, 2007;

- the application went abandoned by operation of law after midnight 28 March, 2007;

- on 12 February, 2007, Petitioner filed an after-final amendment, which Petitioner, as one registered to practice before the Office, knew or should have known was not as of right and was not a proper reply if it did not *prima facie* place the application in condition for

2 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.

allowance,[3] and on 30 July, 2007, the Examiner mailed an Advisory Action, which action Petitioner now complains "forced" him to abandon the application that he in fact had abandoned after midnight 28 March, 2007, by his own failure to file a timely and proper reply, despite the fact that Petitioner clearly had the option to file a proper reply through 28 June, 2007, with a request and fee for extension of time;

- the Office mailed the Notice of Abandonment on 2 August, 2007;
- on 30 August, 2007, Petitioner Wei-Te Chung submitted the instant petition under 37 C.F.R. §1.137(a), and averred as his "showing" of unavoidable delay that the Office "forced" his delay in processing his after-final amendment , which Petitioner as one registered to practice before the Office knew or should have known was not of right and was not a proper reply—and Petitioner exacerbates the matter by insisting upon filing with the instant application a second after-final reply, which the Examiner has refused to enter.

Thus, Petitioner has failed to satisfy the regulatory requirements of the petition under 37 C.F.R. §1.137(a) alleging unavoidable delay—to wit: petition, fee, reply, showing of unavoidable delay—in that Petitioner clearly failed to provide a proper reply, and the showing is insufficient to satisfy the Pratt requirement.[4] (Petitioner should consult (at the Office website, www.uspto.gov) the guidance in the Commentary at MPEP §711.03(c) in this regard.)

Petitioner, as one registered to practice before the Office, knows or should know that his failure to file timely a proper reply is not sufficient basis for an allegation of unavoidable delay, and Petitioner is cautioned that his continued failure to file a proper reply and his failure to file promptly a petition alleging unintentional delay under the provisions of 37 C.F.R. §1.137(b) may upon further review constitute evidence of intentional delay.

Out of an abundance of caution, Petitioners always should note 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.[5]

---

[3] A proper reply is a an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission). (See: MPEP §711.03(c); also MPEP §714.13.)

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

[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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).[6]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.

Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[6]

(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[6] See: *Changes to Patent Practice and Procedure*; *Final Rule Notice*, 62 *Fed. Reg.* at 53158-59 (October 10, 1997), 1203 *Off. Gaz. Pat. Office* at 86-87 (October 21, 1997). See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

And the Petitioner must be diligent in attending to the matter.[7] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[8]))

As to Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a proper reply, a showing of unavoidable delay, and–where appropriate—a terminal disclaimer and fee.

Petitioner has not satisfied the "reply" and "showing" requirements under the regulation.

CONCLUSION

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

ALTERNATIVE VENUE

If Petitioner is unable to make a showing of unavoidable delay, Petitioner's only alternative to irretrievable abandonment is to file a petition under 37 C.F.R. §1.137(b) (state therein that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. §1.137(b) was unintentional").

Petitioner may wish to refer to the guidance (as to revival of abandoned applications) found at the Office website at http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse and/or review the guidance at http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c

Thus, Petitioner may wish to supplement the petition to plead alternatively under 37 C.F.R. §1.137(b) wherein the "showing" burden is much less onerous.

Further correspondence with respect to this matter should be addressed as follows: [9]

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[7] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[8] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

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

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MAY 19 2008

In re Application of	:	
Huang, et al.	:	
Application No. 11/012,944	:	DECISION
Filed: 14 December, 2004	:	
Attorney Docket No. 14963-47936	:	

This is a decision on the petition filed on 25 January, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, as set forth below:

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to a final Office action mailed on 28 December, 2006, with reply due absent extension of time on or before 28 March, 2007.

The application went abandoned by operation of law after midnight 28 March, 2007.

On 12 February, 2007, rather than filing a proper reply Petitioner filed an after-final amendment, which Petitioner, as one registered to practice before the Office, knew was not as of right and was not a proper reply if it did not *prima facie* place the application in condition for allowance, and on 30 July, 2007, the Examiner mailed an Advisory Action, which action Petitioner now complains "forced" him to abandon the application that he in fact had abandoned after midnight 28 March, 2007, by his own failure to file a timely and proper reply, despite the fact that Petitioner clearly had the option to file a proper reply through 28 June, 2007, with a request and fee for extension of time.

The Office mailed the Notice of Abandonment on 2 August, 2007.

On 30 August, 2007, Petitioner Wei-Te Chung submitted the original petition under 37 C.F.R. §1.137(a), and averred as his "showing" of unavoidable delay that the Office "forced" his delay in processing his after-final amendment, which Petitioner as one registered to practice before the Office knew was not of right and was not a proper reply—and Petitioner exacerbated the matter by insisting upon filing with the instant application a second after-final reply, which the Examiner refused to enter. Thus, Petitioner failed to satisfy the regulatory requirements of the petition under 37 C.F.R. §1.137(a)—and the petition was dismissed on 10 December, 2007.

On 25 January, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), with, *inter alia*, a reply in the form of a request for continued examination and fee with an amendment as the submission under 37 C.F.R. §1.114, and made the statement and showing of unintentional delay. (The terminal disclaimer and fee were unnecessary.)

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

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[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 3682 for further processing in due course.

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

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

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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUSCON AZ 85744

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OFFICE OF PETITIONS

In re Application of :
Nhan Bui et al :
Application No. 11/012,952 : ON PETITION
Filed: December 15, 2004 :
Attorney Docket No. TUC920040193US1 :

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

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on May 31, 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]

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

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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).

The examiner of Technology Center AU 2627 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
CARDINAL LAW GROUP
1603 ORRINGTON AVENUE/SUITE 2000
EVANSTON, IL 60201

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. _____

Date : July 3, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Nhan Bui et al
Application No. :11/012,952
Filed :December 15, 2004

The above-identified application has been assigned Patent No. 7,079,349 and an issue date of July 18, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 18, 2006:

"All reference to Patent No. 7,079,349 to Nhan Bui et al of Arizona for VELOCITY ADAPTIVE COMPENSATOR FOR A SYNCHRONOUS SAMPLING TIME-BASED SERVO SYSTEM appearing in the Official Gazette of July 18, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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9000 SOUTH RITA ROAD
TUCSON, AZ 85744

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JUN 25 2007

OFFICE OF PETITIONS

In re Application of	:	
Nhan Bui et al	:	
Application No. 11/012,952	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. TUC920040193US1	:	

This is a decision on the petition filed February 9, 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 in a timely manner in reply to the Notice of Allowance mailed August 7, 2006, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 8, 2006.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

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

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Siemens Corporation
Intellectual Property Department
170 Wood Avenue South
Iselin, NJ 08830

Mail Date: 05/25/2010

Applicant	: Jay Morrison	: DECISION ON REQUEST FOR
Patent Number	: 7666475	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,954	: 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 **1224** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Baker Botts L.L.P
910 Louisiana Street, One Shell Plaza
HOUSTON, TX 77002

Mail Date: 04/20/2010

Applicant	: Jared Terry	: DECISION ON REQUEST FOR
Patent Number	: 7587626	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/012,962	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **702** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/30/2010

Applicant	: Jeff Glickman	: DECISION ON REQUEST FOR
Patent Number	: 7643182	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/012,984	: 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 **1421** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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IAN F. BURNS & ASSOCIATES
1575 DELUCCHI LANE, SUITE 222
RENO NV 89502

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MAR 21 2005

OFFICE OF PETITIONS

In re Application of	:
Seelig et al.	:
Application No. 11/012,986	:DECISION GRANTING PETITION
Filed: 14 December, 2004	:
Atty Dkt. No. 560.943	:

This is a decision on the petition under 37 CFR 1.10(c), filed on 3 March, 2005, requesting that the above-identified application be accorded a filing date of 14 December, 2004, instead of the presently accorded filing date of 15 December, 2004.

The petition is **GRANTED**.

Petitioner asserts that the application was deposited in Express Mail service on 14 December, 2004. In support of petitioners' contention that the application was deposited in Express Mail Post Office to Addressee Service on 14 December, 2004, petitioners supplied, with the present petition, a copy of Express Mail Customer Label No. EV509559949US (the same Express Mail number found on the itemized transmittal sheet filed with the original application papers located in the official file).

Although the "date-in" on the Express Mail Label has not been completed, petitioners have additionally provided a letter from the USPS, signed by Melony Kuo, Express Mail Administration Clerk from the 2000 Vassar St, Reno, NV Post Office stating that the above-referenced Express Mail item was accepted by the USPS on 14 December, 2004.

In view of the above, the petition is granted. The petition fee is unnecessary and petitioners may request a refund thereof by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The application is being referred to the Office of Initial Patent Examination for reprocessing with a filing date of 14 December, 2004, not 15 December, 2004, and for issuance of a corrected Filing Receipt.

Telephone inquiries 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

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Alexandria, VA 22313-1450
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JUL 28 2005

In re Application of	:	
Mac Seelig et al.	:	
Serial No. 11/012,986	:	DECISION ON PETITION
Filed: December 14, 2004	:	
For: GAMING DEVICE BASE	:	

This is a decision on the petition to make special filed on April 29, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3711 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch

Richard A. Bertsch, Director
Technology Center 3700

Ian F. Burns & Associates
1575 Delucchi Lane, Suite 222
Reno, NV 89502

UNITED STATES PATENT AND TRADEMARK OFFICE

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TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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JUL 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Tatsuo Sekimoto, et. al.	:	
Application No. 11/012,989	:	ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. 16869Q-132300US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on February 7, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Allowance and Fee(s) Due mailed August 9, 2007. A Notice of Abandonment was mailed on December 5, 2007.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Kent J. Tobin 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.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,440 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office acknowledges receipt of $3 for one advanced order soft copy filed on February 7, 2008.

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/15/09

TO SPE OF : ART UNIT 2116 (2100)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/012,991 Patent No.: 7,577,832

Attn: Tse Chen

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

Thomas Lee
2115/2116
SPE **Art Unit**

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/15/09

TO SPE OF : ART UNIT **2116 (2100)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/012,991** Patent No.: **7,577,832**

Attn: Tse Chen

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

Ernest C. White, LIE
Certificates of Correction Branch
703-308-9390 ext.122

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

Thomas Lee
2115/2116
SPE **Art Unit**

Best Available Copy

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

LAW OFFICE OF DAN SHIFRIN, PC - IBM
14081 WEST 59TH AVENUE
ARVADA CO 80004

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JUN 17 2008

OFFICE OF PETITIONS

In re Application of :
Ripberger :
Application No. 11/013,003 : DECISION ON PETITION
Filed: December 15, 2004 :
Attorney Docket No. TUC920040075US1 :

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

The petition is **GRANTED**.

The application became abandoned January 3, 2008 for failure to timely submit a proper reply to the final Office action mailed October 2, 2007. The final Office action set a three month shortened statutory period of time for reply. This decision precedes Notice of Abandonment.

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

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

This application is being referred to Technology Center AU 2186 for appropriate action by the Examiner in the normal course of business on the reply under 37 CFR 1.114.

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

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH, PA 15219

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JUL 05 2007

OFFICE OF PETITIONS

In re Application of	:
Christopher E. Bossi et al	:
Application No. 11/013,010	: DECISION GRANTING PETITION
Filed: December 15, 2004	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 130815.00201	:

This is a decision on the petition, filed July 3, 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 June 7, 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 3728 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\july10\013010.wpd

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

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

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JUL 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Peter N. Martin	:	
Application No. 11/013,018	:	DECISION GRANTING PETITION
Filed: December 14, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 42P20134	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 16, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

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

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

This application is being referred to Technology Center AU 2113 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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SEP 09 2009

OFFICE OF PETITIONS

QUALCOMM INCORPORATED
5775 MOREHOUSE DR
SAN DIEGO CA 92121

In re Application of	:	
Jain, et al.	:	
Application No. 11/013,034	:	ON PETITION
Filed: December 14, 2004	:	
Attorney Docket No. 030259U3D1	:	

This is a decision on the petition to revive under 37 CFR 1.137(b), filed July 10, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action, mailed October 23, 2008. This Office action set a shortened statutory period for reply of three months. No reply having been received, the application became abandoned on January 24, 2009. The Office mailed a Notice of Abandonment on June 29, 2009.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and filed the required reply in the form of an RCE.

The application is being forwarded to Group Art Unit 2617 for consideration of the RCE, filed July 10, 2009.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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AUG 21 2008

In re Application of	:	
Justin Bishop	:	
Application No. 11/013,043	:	DECISION GRANTING PETITION
Filed: December 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 081789-0016	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the petition to expedite filed July 17, 2008.

The petitions are **GRANTED**.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Additionally, since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of February 28, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Patent Application Processing for review of the reply (Replacement Drawings) received July 17, 2008.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUL 25 2008

In re Application of	:	
Justin Bishop	:	
Application No. 11/013,044	:	DECISION GRANTING PETITION
Filed: December 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 081789-0017	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the petition to expedite filed July 17, 2008.

The petitions are **GRANTED**.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Additionally, since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of February 28, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Patent Application Processing.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JUL 25 2008

In re Application of	:	
Justin Bishop	:	
Application No. 11/013,045	:	DECISION GRANTING PETITION
Filed: December 13, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 081789-0018	:	

This is a decision on the petition under 37 CFR 1.137(b), filed July 17, 2008, to revive the above-identified application. This is also a decision on the petition to expedite filed July 17, 2008.

The petitions are **GRANTED**.

The above-identified application has been abandoned for an extended period of time. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting the statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Additionally, since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178; 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Corrected Application Papers of February 28, 2005 is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Patent Application Processing.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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GARD AND KASLOW, LLP
ONE FIRST STREET, SUITE 9
LOS ALTOS, CA 94022

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DEC 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Calvin Lee Kaltsukis	:	
Application No. 11/013,060	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. PS3833US	:	FROM RECORD
	:	

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 7, 2009.

The request is **APPROVED**.

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

The request was signed by V. Randall Gard on behalf of all attorneys of record who are associated with customer No. 80641. All attorneys/agents associated with the Customer Number 80641 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There are no pending Office actions at the present time.

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

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

cc: 911 TRACKER INC.
1646 ELDERBERRY WAY
SAN JOSE, CA 95125

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
11/013,060	12/14/2004	Calvin Lee Kaltsukis	PA3833US

CONFIRMATION NO. 9323

POWER OF ATTORNEY NOTICE

80641
Gard and Kaslow LLP
One 1st Street, Suite 9
Los Altos, CA 94022

OC000000039008066

Date Mailed: 11/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/07/2009.

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

/amwise/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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NORMAN E. LEHRER, P.C.
1205 NORTH KINGS HIGHWAY
CHERRY HILL NJ 08034

MAILED

JUN 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Calvin Lee Kaltsukis	:	
Application No. 11/013,060	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2010.

The request is **APPROVED**.

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

The request was signed by Vanitha M. Elgart, former attorney/agent associated with customer number 34678. Vanitha M. Elgart has been withdrawn. All other attorneys/agents will remain of record.

The correspondence address will remain the same until further notified by applicant.

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Lisa K. Jorgenson, Esq.
STMicroelectronics, Inc
1310 Electronics Drive
Carrollton, TX 75006-5039

Mail Date: 04/21/2010

Applicant	: Osvaldo Colavin	: DECISION ON REQUEST FOR
Patent Number	: 7594102	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **534** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Robert W. Wise :
Application No. 11/013,129 :
Filed: December 15, 2004 :
Attorney Docket No. WISE-1-1407 :

ON PETITION

This is a decision on the petition, filed February 14, 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 December 15, 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 September 25, 2008 accompanies this decision on petition.

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

This application is being referred to Technology Center Art Unit 3724 for further prosecution in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,129	12/15/2004	Robert W. Wise	WISE-1-1407

CONFIRMATION NO. 2317

25315
BLACK LOWE & GRAHAM, PLLC
701 FIFTH AVENUE
SUITE 4800
SEATTLE, WA 98104

NONPUBLICATION RESCISSION LETTER

OC000000030553056

Date Mailed: 06/18/2008

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 09/25/2008.

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

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

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

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

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

/sdbrinkley/

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

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OFFICE OF PETITIONS

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

In re Application of

WEN
Application No. 11/013,145
Filed: December 14, 2004
Attorney Docket No. 584682001700

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland 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: **HUAFENG WEN**
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

cc: **TOM COUNTS**
PAUL HASTINGS
55 SECOND STREET, 24TH FLOOR
SAN FRANCISCO, CA 94105

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,145	12/14/2004	Huafeng Wen	584682001700

CONFIRMATION NO. 9909

OC000000021655206

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 12/18/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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Paul, Hastings, Janofsky & Walker LLP
875 15th Street, NW
Washington, DC 20005

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MAR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Huafeng Wen	:	
Application No. 11/013,145	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 71784-02001.UTL	:	FROM RECORD
	:	

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, 2009.

The request is **APPROVED**.

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

The request was signed by Martin R. Bader on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed December 16, 2008 that requires a reply from the applicant.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Align Technology, Inc.**
WAGNER BLECHER LLP
Westrdige Business Park,
123 Westridge Drive
Watsonville, CA 95076

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,145	12/14/2004	Huafeng Wen	71784-02001.UTL

CONFIRMATION NO. 9909

POWER OF ATTORNEY NOTICE

36183
PAUL, HASTINGS, JANOFSKY & WALKER LLP
875 15th Street, NW
Washington, DC 20005

OC000000035230244

Date Mailed: 03/30/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/21/2009.

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

/tswilliams/

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

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MORRISON & FOERSTER LLP
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PALO ALTO, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of	:	
WEN	:	
Application No. 11/013,146	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 584682001000	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record who are associated with Customer No. 25226. All attorneys/agents associated with the Customer No. 25226 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.

A Review of the file discloses that a non-final Office action was mailed on April 06, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of April 06, 2006 has been received.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: HUAFENG WEN
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

cc: TOM COUNTS
PAUL HASTINGS
55 SECOND STREET
TWENTY-FOURTH FLOOR
SAN FRANCISCO, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,146	12/14/2004	Huafeng Wen	584682001000

CONFIRMATION NO. 9926

OC000000021676450

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 12/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

PATRICIA A VOLPE
OP (571) 272-6825

FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

In re Application of

Huafeng Wen
Application No. 11/013,152
Filed: December 14, 2004
Attorney Docket No. 584682001500

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Huafeng Wen**
2117 Gossamer Avenue
Redwood City, CA 94065

cc: **Tom Counts**
Paul Hastings
55 Second Street
Twenty-Four Floor
San Francisco, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,152	12/14/2004	Huafeng Wen	584682001500

CONFIRMATION NO. 9924

OC000000021969446

OC000000021969446

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 01/12/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

In re Application of

Huafeng Wen
Application No. 11/013,153
Filed: December 14, 2004
Attorney Docket No. 584682001200

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland 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.

There is an outstanding Office action mailed January 25, 2005 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Huafeng Wen**
2117 Gossamer Avenue
Redwood City, CA 94065

cc: **Tom Counts**
Paul Hasting
55 Second Street, 24th Floor
San Francisco, CA 94105

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DEC 2 1 2006

OFFICE OF PETITIONS

In re Application of

WEN
Application No. 11/013,154
Filed: December 14, 2004
Attorney Docket No. 584682001300

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record who are associated with customer No. 25226. All attorneys/agents associated with the Customer Number 25226 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: **WEN HUAFENG**
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

cc: **TOM COUNTS**
PAUL HASTINGS
55 SECOND STREET, 24TH FLOOR
SAN FRANCISCO, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,154	12/14/2004	Huafeng Wen	584682001300

CONFIRMATION NO. 9923

OC000000021686653

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 12/20/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

FORMER ATTORNEY/AGENT COPY

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

In re Application of
WEN
Application No. 11/013,155
Filed: December 14, 2004
Attorney Docket No. 584682001400

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record who are associated with customer No. 25226. All attorneys/agents associated with the Customer Number 25226 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: **HUAFENG WEN**
2117 GOSSAMER AVENUE
REDWOOD CITY, CA 94065

cc: **TOM COUNTS**
PAUL HASTINGS
55 SECOND STREET, 24TH FLOOR
SAN FRANCISCO, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,155	12/14/2004	Huafeng Wen	584682001400

CONFIRMATION NO. 9912

OC000000021720006

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 12/22/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

MONICA A GRAVES
OP (571) 272-7253

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In re Application of	:	
LIU, et al.	:	
Application No. 11/013,156	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 584682000500	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2006 and subsequently filed on October 19, 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 Charles D. Holland on behalf of all attorneys of record who are associated with Customer No. 25226. All attorneys/agents associated with the Customer No. 25226 have been withdrawn.

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6825.

Patricia Volpe
Petitions Examiner
Office of Petitions

cc: FRANK ZHENHUAN LIU
353 ST. MARTIN STREET
REDWOOD CITY, CA 94065

cc: TOM COUNTS
PAUL HASTINGS
55 SECOND STREET
TWENTY-FOURTH FLOOR
SAN FRANCISCO, CA 94105

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Morrison & Foerster LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

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OFFICE OF PETITIONS

In re Application of :

Huafeng Wen :
Application No. 11/013,157 :
Filed: December 14, 2004 :
Attorney Docket No. 584682000900 :

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 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

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

There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Huafeng Wen**
2117 Gossamer Avenue
Redwood City, CA 94065

cc: **Tom Counts**
Paul Hastings
55 Second Street
Twenty-Fourth Floor
San Francisco, CA 94105

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/013,157	12/14/2004	Huafeng Wen	584682000900

CONFIRMATION NO. 9916

OC000000022503696

OC000000022503696

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 02/15/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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PAUL, HASTINGS, JANOFSKY & WALKER, LLP
875 15TH STREET, NW
WASHINGTON, DC 2005

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OFFICE OF PETITIONS

In re Application of	:	
Huafeng WEN	:	
Application No. 11/013,157	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 71784.01701.UTL1	:	FROM RECORD
	:	

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, 2009.

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

A review of the file record indicates that the power of attorney to Paul, Hastings, Janofsky & Walker LLP, has been revoked by the assignee of the patent application on February 9, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALIGN TECHNOLOGY, INC.
JOHN WAGNER, WAGNER BLECHER LLP,
WESTRIDGE BUSINESS PARK,
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

cc: MARTIN R. BADER, ESQ.
P.O. BOX 919092
SAN DIEGO, CA 92191

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

PAUL, HASTINGS, JANOFSKY & WALKER, LLP
875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	
Huafeng WEN	
Application No. 11/013,158	DECISION ON PETITION
Filed: December 14, 2004	TO WITHDRAW
Attorney Docket No. 71784.01501.UTL1	FROM RECORD

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, 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 Martin Bader on behalf of the attorneys of record associated with Customer No. 36183.

The attorneys of record associated with Customer No. 36183 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALIGN TECHNOLOGY, INC.
JOHN WAGNER, WAGNER BLECHER LLP,
WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

cc: MARTIN R. BADER, ESQ.
P.O. BOX 919092
SAN DIEGO, CA 92191

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875 15TH STREET, NW
WASHINGTON DC 20005

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of	
Huafeng WEN	
Application No. 11/013,159	DECISION ON PETITION
Filed: December 14, 2004	TO WITHDRAW
Attorney Docket No. 71784.01801.UTL1	FROM RECORD

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, 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 Martin Bader on behalf of the attorneys of record associated with Customer No. 36183.

The attorneys of record associated with Customer No. 36183 have been withdrawn.

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

The correspondence address of record has been changed and the new correspondence address is the address below until otherwise properly notified by the applicant.

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ALIGN TECHNOLOGY, INC.
JOHN WAGNER, WAGNER BLECHER LLP,
WESTRIDGE BUSINESS PARK
123 WESTRIDGE DRIVE
WATSONVILLE, CA 95076

cc: MARTIN R. BADER, ESQ.
P.O. BOX 919092
SAN DIEGO, CA 92191

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

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JAN 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Frank Z. Liu, et al.	:	
Application No. 11/013,160	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 584682000600	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 12, 2006.

The request is **APPROVED**.

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

The request was signed by Charles D. Holland on behalf of all attorneys of record who are associated with this application.

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

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

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ORTHOCLEAR HOLDING, INC.
THE MILL MAL, PO BOX 92
WICKHAMS CAY 1, ROAD TOWN
TORTOLA, BRITISH VIRGIN ISLANDS

cc: TOM COUNTS
PAUL HASITNGS
55 SECOND STREET
TWENTY-FOURTH FLOOR
SAN FRANCISCO, CA 94105

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
11/013,160	12/14/2004	Frank Zhenhuan Liu	584682000600

CONFIRMATION NO. 9920

OC000000021937969

OC000000021937969

25226
MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

Date Mailed: 01/11/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/12/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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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Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

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AUG 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael V. **POWERS**, et al.	:	
Application No. 11/013,163	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. RUS0143	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Amelia Au
Petitions Examiner
Office of Petitions

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Paper No.

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of	:	
Franc Hercoget et al.	:	
Application No. 11/013,171	:	DECISION ON PETITION
Filed: December 15, 2004	:	PURSUANT TO
Attorney Docket No.: 0276-0001	:	37 C.F.R. § 1.181
Title: METHOD FOR FAST-CHARGING	:	
A BATTERY AND DEVICE FOR	:	
CARRYING OUT SAID METHD	:	

This is a decision on the petition filed on January 14, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition is **DISMISSED.**

A decision on the concurrently submitted petition pertaining to the benefit claim will be mailed in due course, under separate cover.

BACKGROUND

A Notice of Allowance and Issue Fee Due (first notice) was mailed on August 24, 2007, which set a three-month period for the submission of the issue and publication fees and corrected

drawings. No extensions of time are permitted for transmitting issue or publication fees or corrected drawings.[1]

Corrected drawings were received on September 12, 2007.

A Supplemental Notice of Allowance and Issue Fee Due (second notice) was mailed on October 12, 2007, which set a three-month period for the submission of corrected drawings.

As such, the Office set **two separate deadlines**: the first notice set a non-extendable period for submitting the issue and publication fees and corrected drawings by November 24, 2007, and after corrected drawings were received on September 12, 2007, the second notice set a non-extendable period for submitting additional corrected drawings by January 12, 2007. The mailing of the second notice did not affect the deadline for the submission of the issue and publications fees that had been set by the first notice. **Each of these notices set forth separate requirements, and each set a period for response that ran independently of the other.**

As set forth, above, corrected drawings were received on September 12, 2007. The issue and publication fees were not received in response to the first notice, and accordingly, the above-identified application became abandoned on November 25, 2007. A Notice of Abandonment was mailed on December 20, 2007.

RELEVANT LAW AND PORTIONS OF THE C.F.R.

35 U.S.C. 151 Issue of patent.

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.
>
> Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.
>
> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

1 See MPEP § 710.02(e).

37 C.F.R. § 1.134: Time period for reply to an Office action.

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135: Abandonment for failure to reply within time period.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

ANALYSIS

With the present petition, Petitioner has asserted:

> …the Notice of Abandonment was sent prematurely. Specifically, the Notice of Abandonment was sent prior (sic) January 12, 2008.
>
> Petition, page 2.

In order for the notice of abandonment to have been sent prematurely, the second notice would have had to have reset the period that was set by the first notice for submitting the issue and publication fees. Such is not the case. As set forth above, each of these notices set forth a separate requirement, and each set a period for response that ran independently of the other.

Petitioner failed to submit the issue and publication fees in a timely manner, and as such, the present application went abandoned by operation of law, pursuant to the law and regulations cited above.

As set forth above, **the first notice was mailed August 24, 2007, and set a non-extendable three-month period for response. As such, the issue and publication fees were due no later than November 24, 2007. When the required fees were not presented by this date, pursuant to 35 U.S.C. § 151 and 37 C.F.R. § 1.135, this application went abandoned by operation of law.**

CONCLUSION

Any reply to this decision must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted.

The reply should include a cover letter entitled "Renewed Petition pursuant to 37 C.F.R. § 1.181(a)." This is not a final agency action within the meaning of 5 U.S.C § 704.

Petitioner may also file a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b), which may be filed independently or concurrently with any renewed petition pursuant to 37 C.F.R. § 1.181.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[2] hand-delivery,[3] or facsimile.[4] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[5]

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[6] All other inquiries

---

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
3 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
4 (571) 273-8300- please note this is a central facsimile number.
5 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
6 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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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JAN 12 2009

OFFICE OF PETITIONS

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of	:	
Franc Hercoget et al.	:	
Application No. 11/013,171	:	DECISION ON RENEWED PETITION
Filed: December 15, 2004	:	PURSUANT TO
Attorney Docket No.: 0276-0001	:	37 C.F.R. § 1.181
Title: METHOD FOR FAST-CHARGING	:	
A BATTERY AND DEVICE FOR	:	
CARRYING OUT SAID METHD	:	

This is a decision on the renewed petition filed on October 31, 2008, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition is **DISMISSED**.

BACKGROUND

A Notice of Allowance and Issue Fee Due (first notice) was mailed on August 24, 2007, which set a three-month period for the submission of the issue and publication fees and corrected drawings. No extensions of time are permitted for transmitting issue or publication fees or corrected drawings.[1]

Corrected drawings were received on September 12, 2007.

1 See MPEP § 710.02(e).

A Supplemental Notice of Allowance and Issue Fee Due (second notice) was mailed on October 12, 2007, which set a three-month period for the submission of corrected drawings.

As such, the Office set two separate deadlines: the first notice set a non-extendable period for submitting the issue and publication fees and corrected drawings by November 24, 2007, and after corrected drawings were received on September 12, 2007, the second notice set a non-extendable period for submitting additional corrected drawings by January 12, 2007. The mailing of the second notice did not affect the deadline for the submission of the issue and publications fees that had been set by the first notice. Each of these notices set forth separate requirements, and each set a period for response that ran independently of the other.

As set forth, above, corrected drawings were received by September 12, 2007. The issue and publication fees were not received in response to the first notice, and accordingly, the above-identified application became abandoned on November 25, 2007. A Notice of Abandonment was mailed on December 20, 2007.

RELEVANT LAW AND PORTIONS OF THE C.F.R.

35 U.S.C. 133 Time for prosecuting application.

> Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Director in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Director that such delay was unavoidable.

35 U.S.C. 151 Issue of patent.

> If it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant. The notice shall specify a sum, constituting the issue fee or a portion thereof, which shall be paid within three months thereafter.
>
> Upon payment of this sum the patent shall issue, but if payment is not timely made, the application shall be regarded as abandoned.
>
> Any remaining balance of the issue fee shall be paid within three months from the sending of a notice thereof, and, if not paid, the patent shall lapse at the termination of this three-month period. In calculating the amount of a remaining balance, charges for a page or less may be disregarded.

> If any payment required by this section is not timely made, but is submitted with the fee for delayed payment and the delay in payment is shown to have been unavoidable, it may be accepted by the Director as though no abandonment or lapse had ever occurred.

37 C.F.R. § 1.134: Time period for reply to an Office action.

> An Office action will notify the applicant of any non-statutory or shortened statutory time period set for reply to an Office action. Unless the applicant is notified in writing that a reply is required in less than six months, a maximum period of six months is allowed.

37 C.F.R. § 1.135: Abandonment for failure to reply within time period.

> (a) If an applicant of a patent application fails to reply within the time period provided under § 1.134 and § 1.136, the application will become abandoned unless an Office action indicates otherwise.
> (b) Prosecution of an application to save it from abandonment pursuant to paragraph (a) of this section must include such complete and proper reply as the condition of the application may require. The admission of, or refusal to admit, any amendment after final rejection or any amendment not responsive to the last action, or any related proceedings, will not operate to save the application from abandonment.
> (c) When reply by the applicant is a bona fide attempt to advance the application to final action, and is substantially a complete reply to the non-final Office action, but consideration of some matter or compliance with some requirement has been inadvertently omitted, applicant may be given a new time period for reply under § 1.134 to supply the omission.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to Rule 1.181 was filed on January 14, 2008, where Petitioner asserted:

> …the Notice of Abandonment was sent prematurely. Specifically, the Notice of Abandonment was sent prior (sic) January 12, 2008.
>
> Original petition, page 2.

The original petition was dismissed via the mailing of a decision on September 2, 2008, which indicated, in pertinent part:

> Petitioner failed to submit the issue and publication fees in a timely manner, and as such, the present application went abandoned by operation of law, pursuant to the law and regulations cited above.

> As set forth above, **the first notice was mailed August 24, 2007, and set a non-extendable three-month period for response. As such, the issue and publication fees were due no later than November 24, 2007. When the required fees were not presented by this date, pursuant to 35 U.S.C. § 151 and 37 C.F.R. § 1.135, this application went abandoned by operation of law** (emphasis included).

With this renewed petition, Petitioner has explained that the first notice contained an indication that a previously made claim for foreign priority was not granted.[2] Petitioner did not agree with this finding, and filed a petition pursuant to 37 C.F.R. § 1.78[3] on January 14, 2008, subsequent to the abandonment of this application.

As such, prior to the abandonment of this application, Petitioner undertook no effort to submit either the issue or the publication fee, due to Petitioner's disagreement with the Examiner's finding pursuant to the above-referenced priority claim. However, the propriety of the Examiner's position regarding the priority claim is not relevant to Petitioner's burden to timely prosecute the application to avoid abandonment.[4]

If Applicant believed that the Examiner's position regarding the priority claim was erroneous, the proper course of action would have been to submit the corrected drawings along with the required fees (so as to comply with the requirements of 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b)) in order to fully reply to said notice, and either:

- submit a petition pursuant to 37 C.F.R. § 1.313 to withdraw from issue and a petition pursuant to 37 C.F.R. § 1.78, or;
- submit a Request for Continued Examination (RCE)[5] and a petition pursuant to 37 C.F.R. § 1.78.

If the patent had issued without the proper priority claim, the remedies of certificate of correction and reissue would also be available.

Instead, Petitioner failed to fully respond to the notice, and allowed this application to go abandoned. As was discussed in

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2 See page 2 of the first notice, section entitled "[p]riority."
3 The petition pursuant to Rule 1.78 has been docketed to a different department within the Office.
4 See 35 U.S.C. § 133 and 37 C.F.R. §§ 1.134 and 1.135(a) and (b), reproduced above.
5 The corrected drawings would have comprised the submission required by 37 C.F.R. § 1.114(c).

the decision on the original petition, the notice of August 24, 2007 set forth a non-extendable period of three months to submit the issue fee, the publication fee, and corrected drawings. When the required fees were not presented by November 24, 2007, this application went abandoned by operation of law, pursuant to 35 U.S.C. §§ 133 and 151, as well as 37 C.F.R. § 1.135.

Petitioner has requested the Office to withdraw the holding of abandonment so as to "enable" Petitioner to "properly resolve the priority issue" and "to pay the issue fee."[6] However, this would necessitate the suspension of 35 U.S.C. §§ 133 and 151, as well as 37 C.F.R. § 1.135, and Petitioner has not submitted a petition requesting the waiver of Rule 1.135, via the filing of a petition pursuant to 37 C.F.R. § 1.183. Petitioner will note that a request to waive or suspend the requirements of statute pursuant to 37 CFR § 1.183 is beyond the discretion or the authority of the Office.[7]

CONCLUSION

The time period for filing a second renewed petition is governed by 37 C.F.R. § 1.181(f). Therefore, if reconsideration of this decision is desired, any response to this decision must be submitted within **TWO MONTHS** from the mail date of this decision, and **extensions of time under 37 C.F.R. § 1.136(a) are not permitted**. The reply should include a cover letter entitled "Second Renewed Petition pursuant to 37 C.F.R. § 1.181." This is not a final agency action within the meaning of 5 U.S.C § 704.

Given the facts and circumstances of this case, it does not appear that a request to withdraw the holding of abandonment will be granted. Petitioner may wish to file a petition pursuant to 37 C.F.R. §§ 1.137(a) and/or (b) to revive the present application.

Any submission in response to this decision should indicate in a prominent manner that the attorney handling this matter is Paul

---

6 Renewed petition, page 3.

7 See A. F. Stoddard & Co. v. Dann, 184 U.S. App. D.C. 71, 564 F.2d 556, 1977 U.S. App. LEXIS 11815, 195 U.S.P.Q. (BNA) 97 (1977) ("Executive Branch agencies, such as the PTO, having the obligation to carry out their duties under their authorizing statutes, and if they would avoid an exercise of the powers of another Branch, must in almost every case, follow the strict provisions of the applicable statute.")

Shanoski, and may be 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, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225.[12] All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

---

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

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OFFICE OF PETITIONS

BEEM PATENT LAW FIRM
53 W. JACKSON BLVD., SUITE 1352
CHICAGO IL 60604-3787

In re Application of	:	
Franc Hercoget et al.	:	
Application No. 11/013,171	:	DECISION ON PETITION
Filed: December 15, 2004	:	PURSUANT TO
Attorney Docket No.: 0276-0001	:	37 C.F.R. § 1.137(B)
Title: METHOD FOR FAST-CHARGING	:	
A BATTERY AND DEVICE FOR	:	
CARRYING OUT SAID METHD	:	

This is a decision on the petition filed January 22, 2009, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application.

This petition is **GRANTED**.

A Notice of Allowance and Issue Fee Due (first notice) was mailed on August 24, 2007, which set a three-month period for the submission of the issue and publication fees and corrected drawings. No extensions of time are permitted for transmitting issue or publication fees or corrected drawings.[1] Corrected drawings were received on September 12, 2007. A Supplemental Notice of Allowance and Issue Fee Due (second notice) was mailed on October 12, 2007, which set a three-month period for the submission of corrected drawings. As such, the Office set two separate deadlines: the first notice set a non-extendable period for submitting the issue and publication fees and corrected drawings by November 24, 2007, and after corrected drawings were received on September 12, 2007, the second notice set a non-extendable period for submitting additional corrected drawings

1 See MPEP § 710.02(e).

by January 12, 2007. The mailing of the second notice did not affect the deadline for the submission of the issue and publications fees that had been set by the first notice. Each of these notices set forth separate requirements, and each set a period for response that ran independently of the other. Although corrected drawings were received by September 12, 2007, the issue and publication fees were not received in response to the first notice, and accordingly, the above-identified application became abandoned on November 25, 2007. A Notice of Abandonment was mailed on December 20, 2007.

An original petition pursuant to Rule 1.181 was filed on January 14, 2008, which was dismissed via the mailing of a decision on September 2, 2008.

A renewed petition pursuant to 37 C.F.R. § 1.181 was filed on October 31, 2008, and was dismissed via the mailing of a decision on January 12, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, the issue and publication fees, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

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

---

2 See Rule 1.137(d).

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.[3] 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

---

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

MAR - 2 2005

RICKY W. MCCULLOUGH
48 MOOSUP VALLEY ROAD
FOSTER RI 02825

In re Application of	:
Ricky W. McCullough et al	:
Serial No.: 11/013,172	: PETITION TO MAKE SPECIAL
Filed: December 15, 2004	:
Attorney Docket No.:	:

This is in response to the petition filed December 15, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

> An application may be made special on the ground of prospective manufacture upon the filing of a petition accompanied by the fee under 37 CFR 1.17(h) and a statement by the applicant, assignee or an attorney/agent registered to practice before the Office alleging:
> (A) The possession by the prospective manufacturer of sufficient presently available capital (stating approximately the amount) and facilities (stating briefly the nature thereof) to manufacture the invention in quantity or that sufficient capital and facilities will be made available if a patent is granted; If the prospective manufacturer is an individual, there must be a corroborating statement from some responsible party, as for example, an officer of a bank, showing that said individual has the required available capital to manufacture;
> (B) That the prospective manufacturer will not manufacture, or will not increase present manufacture, unless certain that the patent will be granted;
> (C) That the prospective manufacturer obligates himself, herself or itself, to manufacture the invention, in the United States or its possessions, in quantity immediately upon the allowance of claims or issuance of a patent which will protect the investment of capital and facilities; and
> (D) That the applicant or assignee has made or caused to be made a careful and thorough search of the prior art, or has a good knowledge of the pertinent prior art.
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

Applicant has not satisfied the provisions set forth in M.P.E.P. 708.02, I. Applicant's declaration and other submissions accompanying the petition do not satisfy provisions B, C or D above and may only partially satisfy provision A. In addition, no fee accompanied the petition, possibly due a change in the USPTO fee structure which took effect only a few days prior to the filing of the application.

Therefor the petition is **DISMISSED**. Applicant may submit a renewed petition satisfying the above noted provisions and accompanied by the required petition fee.

Should there be any questions with regard to this letter please contact William R. Dixon, Jr. by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Ricky W. McCullough
48 Moosup Valley Road
Foster, RI 02825

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Ricky W. McCullough
Application No. 11/013,172
Filed: December 15, 2004
Attorney Docket No. N/A

ON PETITION

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

The application became abandoned for failure to respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on April 4, 2008. A Notice of Abandonment was mailed January 28, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) an amendment; (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1623 for review of the amendment filed with the present petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/26/09

TO SPE OF : ART UNIT 2876

SUBJECT : Request for Certificate of Correction for Appl. No.: 11013189 Patent No.: 7486707 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

/Michael G. Lee/

SPE

Art Unit

2876

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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MAR 3 1 2006

OFFICE OF PETITIONS

Shlesinger & Fitzsimmons
Suite 1323
183 East Main Street
Rochester, NY 14604

In re Application of	:	
Marco Lucidera	:	
Application No. 11/013,190	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 23, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

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

Finance records disclose that petitioner's $968 check, dated January 23, 2006, was returned to the Office for insufficient funds. Therefore, petitioner must submit the bounced check fee of $50, as well as, $750 for the petition to revive fee, $53 in claim fees, $100 for the examination fee, and the $65 surcharge for the late filing of the oath/declaration.

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

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

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

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

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

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Shlesinger & Fitzsimmons
Suite 1323
183 East Main Street
Rochester, NY 14604

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Marco Lucidera	:	
Application No. 11/013,190	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. N/A	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed April 4, 2007, to revive the above-identified application. The delay in responding is regretted.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an executed Oath/Declaration with the $65 surcharge, $100 for the examination fee, and $75 for claims in excess of twenty; (2) the petition fee of $750; and (3) a proper statement of unintentional delay. Therefore, the petition is GRANTED.

The application file is being referred to the Office of Patent Application Processing for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No. None

Fletcher Yoder
P.O. Box 692289
Houston TX 77269

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SEP 13 2006

OFFICE OF PETITIONS

In re Application of Jeffrey W. Honeycutt Application No. 11/013,210 Filed: December 14, 2004 Attorney Docket No. MICS:0018-2/FLE 94-021.02 Title: LIGHTLY DOPED DRAIN MOS TRANSISTOR	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 9, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **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 on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference both the prior-filed application and the parent of the same. 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).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Any reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.78(a)(3)". This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[1], hand-delivery[2], or facsimile[3].

Telephone inquiries regarding *this decision* should be directed to Senior Attorney Paul Shanoski at (571) 272-3225[4]. All other

---

1 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
2 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
3 (571) 273-8300- please note this is a central facsimile number.
4 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the

inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks
Petitions Examiner
Office of Petitions
United States Patent and Trademark Office

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written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY
CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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FEB 0 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Aboulhosn et al.	:	
Application No. 11/013212	:	
Filing or 371(c) Date: 12/15/2004	:	ON PETITION
Attorney Docket Number:	:	
396458001US2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **dismissed**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Request for Reconsideration of Petition under [insert the applicable code section]". This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment, mailed March 20, 2007. The Notice set a one (1) 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 21, 2007. A Notice of Abandonment was mailed October 3, 2007.

Applicant files the present petition and Amendment in response to the Office action.

Applicable law, Rules and MPEP

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

The present petition and amendment

The Examiner has reviewed the Amendment and concluded that the Amendment fails to place the application in condition for allowance.

The application file indicates a Power of Attorney has been filed in this case, wherein the signature on the Power of Attorney lists the signor as Associate General Counsel-VP of Intellectual Property only. Applicant has also filed a copy of the assignment recordation form that lists the assignee as Palm Source, Inc. There is no statement under 37 CFR 3.73(b), nor is there any other indication that the signor is authorized to act on behalf of the assignee (i.e. apparent authority), only that the signor is the Associate General Counsel-VP of Intellectual Property (for someone). A proper Power of Attorney and change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

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

By mail: 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

CC: Berry & Associates P.C.
9255 Sunset Boulevard
Suite 810
Los Angeles, CA 90069

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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AMIN. TUROCY & CALVIN, LLP
24TH FLOOR, NATIONAL CITY
CENTER
1900 EAST NINTH STREET
CLEVELAND OH 44114

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APR 17 2008

OFFICE OF PETITIONS

In re Application of	:	
Aboulhosn et al.	:	
Application No. 11/013212	:	
Filing or 371(c) Date: 12/15/2004	:	ON PETITION
Attorney Docket Number:	:	
396458001US2	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 25, 2008, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Non-Compliant Amendment, mailed March 20, 2007. The Notice set a one (1) 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 21, 2007. A Notice of Abandonment was mailed October 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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 2162 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition in accordance with 37 CFR 1.114.

Derek L. Woods
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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DIW Oct-06

TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Shumarayev et al.	:	
Application No. 11/013,213	:	DECISION ON PETITION
Filed: 14 December, 2004	:	
Attorney Docket No. 015114-0719910US	:	

This is a decision on the petition filed on 19 July, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 29 October, 2005, for failure to timely submit the issue fee in response to the Notice Allowance and Fee(s) Due mailed on 28 July, 2005, which set 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 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)).

three (3) month statutory period for reply. Notice of Abandonment was mailed on 17 April, 2006.

Petitioners have filed the issue fee as the required reply.

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 07/15/09

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11013226 Patent No.: 7457313 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

C Paul Harper 7/22/09

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OFFICE OF PETITIONS

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK NY 10022

In re Application of	:	
Marc Husemann et al.	:	
Application No. 11/013,237	:	DECISION ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. 101769-282 TESA 1660-WCG	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 12, 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 8, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed May 8, 2008. Accordingly, the date of abandonment is August 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440.00 and 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 Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

NF

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AUG 12 2008

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. 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) 101769-282 / tesa AG 1660

First named inventor: Marc HUSEMANN et al

Application No.: 11/013,237 Art Unit: 1796

Filed: December 15, 2004 Examiner: Fred M. Teskin

Title: PRESSURE-SENSITIVE ADHESIVE BASED ON ACRYLATE BLOCK COPOLYMERS

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

☑ Other than small entity – fee $ 1540.00 (37 CFR 1.17(m))

2. Reply and/or fee

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

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

B. The issue fee and publication fee (if applicable) of $ 1740.00.

☐ 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.

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AUG 12 2008

PTO/SB/64 (08-08)
Approved for use through 08/31/2008. 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

☑ 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	8-12-08 Date
BRIAN C. ANSCOMB Typed or printed name	48,641 Registration Number, if applicable
NORRIS McLAUGHLIN & MARCUS, P.A. Address	212-808-0844 Telephone Number
875 THIRD AVENUE - 18TH FLOOR, NEW YORK, NY 10022 Address	

Enclosures: ☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: PART B- FEE(TRANSMITTAL)

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.

August 12, 2008 Date	Signature
	Jennifer Archer Typed or printed name of person signing certificate

PAGE 2/3 * RCVD AT 8/12/2008 11:31:44 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/42 * DNIS:2738300 * CSID:1212 808 0844 * DURATION (mm-ss):01-38

RECEIVED
CENTRAL FAX CENTER
AUG 12 2008

PART B - FEE(S) TRANSMITTAL

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

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

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

27386 7590 05/08/2008

NORRIS, MCLAUGHLIN & MARCUS, P.A.
875 THIRD AVE
18TH FLOOR
NEW YORK, NY 10022

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

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

Jennifer Archer (Depositor's name)
Jennifer Archer (Signature)
August 12, 2008 (Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/013,237	12/15/2004	Marc Husemann	101769-282 TESA 1660-WCG	1179

TITLE OF INVENTION: PRESSURE-SENSITIVE ADHESIVE BASED ON ACRYLATE BLOCK COPOLYMERS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1440	$300	$0	$1740	08/08/2008

EXAMINER	ART UNIT	CLASS-SUBCLASS
TESKIN, FRED M	1796	525-094000

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

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

1 Norris McLaughlin & Marcus, P.A.
2
3

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE: tesa AG
(B) RESIDENCE: (CITY and STATE OR COUNTRY): Hamburg, Germany

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

4a. The following fee(s) are submitted:
☒ Issue Fee
☒ Publication Fee (No small entity discount permitted)
☒ Advance Order - # of Copies 2

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)
☐ A check is enclosed.
☐ Payment by credit card. Form PTO-2038 is attached.
☒ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number 141263 (enclose an extra copy of this form).

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

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

Authorized Signature Brian C. Ansc
Date 8/12/08
Typed or printed name Brian C. Anscomb
Registration No. 48,641

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

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- Attrny Docket No:
- Deposit Account No.:

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Accounting Date	Operator ID	Seq. No.	Txn Src	Fee Code	St	Amount	Name/Number
08/13/2008	CNGUYEN3	46	SALE	1453	A	1,540.00	11013237
08/13/2008	CNGUYEN3	45	SALE	8001	A	6.00	11013237
08/13/2008	CNGUYEN3	44	SALE	1504	A	300.00	11013237
08/13/2008	CNGUYEN3	43	SALE	1501	A	1,440.00	11013237
05/01/2008	INTEFSW	3372	SALE	1401	A	510.00	11013237
05/01/2008	INTEFSW	3371	SALE	1252	A	460.00	11013237
09/11/2007	INTEFSW	4544	SALE	1253	A	1,020.00	11013237
06/30/2005	RAMPTAS	169	SALE	8021	A	40.00	11013237
05/11/2005	AWONDAF1	66	SALE	1051	A	130.00	11013237
12/20/2004	STEUMEL1	94	SALE	1203	A	360.00	11013237
12/20/2004	STEUMEL1	93	SALE	1202	A	1,700.00	11013237

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KOESTNER BERTANI LLP
18662 MACARTHUR BLVD
SUITE 400
Irvine, CA 92612

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SEP 15 2006

Technology Center 2100

In re Application of: Williams, et al. Application No. 11/013,239 Filed: December 14, 2004 For: SYSTEMS AND METHODS FOR LOGO DESIGN	)	**DECISION ON PETITION TO MAKE SPECIAL UNDER M.P.E.P.§708.02(II): INFRINGEMENT**

This is a decision on the petition, filed June 21, 2005, under 37 C.F.R. 1.102(d) and M.P.E.P. §708.02(II): Infringement, to make the above-identified application special.

A grantable petition under 37 C.F.R. 1.102(d), and M.P.E.P. §708.02, Section II, must be accompanied by payment of the fee under 37 C.F.R. 1.17(h) and a statement under 37 C.F.R. 1.102 by the applicant or assignee or statements by an attorney/agent registered to practice before the Patent and Trademark Office that: (A) there is an infringing device or product actually on the market or method in use; (B) 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) 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.

The petition filed June 21, 2005 includes all of the requirements set forth above and, therefore, the petition is **GRANTED**.

The application is being forwarded to the examiner to be advanced out of turn for examination in accordance with the procedures set forth in M.P.E.P. §708.02 and 37 C.F.R. 1.102.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software, and Information Security
(571) 272-3595

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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Paper No. 062505

JUL 29 2005

Brinks Hofer Gilson & Lione
P.O. Box 10395
Chicago, IL 60610

In re Application of:	:	
MEHTA *et al.*	:	DECISION ON REQUEST TO WITHDRAW FROM RECORD
Serial No.: 11/013,240	:	
Filed: December 14, 2004	:	
Attorney Docket No.: **10069/30 (L04-036)**	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 25, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys of Lattice Semiconductor Corporation was filed on March 30, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

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

Inquiries related to this decision should be directed to Clayton E. LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Lattice Semiconductor Corporation
5555 NE Moore Court
Hillsboro OR 97124-6421

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

ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

Mail Date: 04/21/2010

Applicant	: Kirk W. Todd	: DECISION ON REQUEST FOR
Patent Number	: 7568619	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,244	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Michael Best & Friedrich, LLP
Two Prudential Plaza
180 North Stetson Avenue
Suite 2000
Chicago, IL 60601

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JUL 11 2008

OFFICE OF PETITIONS

In re Application of	:	
R. Giovanni Fima	:	
Application No. 11/013,249	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. 034584-9005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 6, 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 correspondence address has been changed to that of the applicant and is copied below.

Applicant is reminded that there is no attorney of record 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: R. Giovanni Filma
2392 Fire Mountain Drive
Oceanside, CA 92054

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
11/013,249	12/15/2004	R. Giovanni Fima	034584-9005

CONFIRMATION NO. 9711

POWER OF ATTORNEY NOTICE

1131
MICHAEL BEST & FRIEDRICH LLP
Two Prudential Plaza
180 North Stetson Avenue, Suite 2000
CHICAGO, IL 60601

OC000000030917005

Date Mailed: 07/11/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/06/2008.

- 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.

HONEYWELL INTERNATIONAL INC.
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN NJ 07962-2245

COPY MAILED
SEP 25 2008

In re Application of	:	
Richard King	:	ON APPLICATION
Application No. 11/013,253	:	FOR
Filed: December 14, 2004	:	PATENT TERM ADJUSTMENT
Atty Docket No. H0006524-1462	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed August 21, 2008. Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to six hundred sixty-four (664) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred sixty-four **(664)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On May 28, 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 0 days. The instant application for patent term adjustment was timely filed.[1] Applicant argues with the period of adjustment of 664 days entered for Office delay. Applicant asserts that there were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination. In effect, applicant disputes the reduction of 924 days entered for the filing of an electronic information disclosure statement (IDS) on November 30, 2007.

[1] PALM records indicate that the issue fee was also paid on May 28, 2008.

Applicant states that the present application is not subject to a terminal disclaimer.

Applicant is correct. The IDS filed on November 30, 2007 was filed subsequent to a response filed on May 20, 2005 for purposes of security review[2]. Both papers were filed by applicant prior to the first Office action within the meaning of 37 CFR 1.702(a)(1), and neither was a response to the Office action. It is appropriate to conclude that the IDS filed November 30, 2007 was not a supplemental response within the meaning of 37 CFR 1.704(c)(8). The reduction of 924 days is not warranted and is being removed.

The initial determination of patent term adjustment at the time of the mailing of the notice of allowance is six hundred sixty-four (664) days.

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

The application is being forwarded to the Office of Data Management for issuance of 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
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

---

[2] The record does not support a conclusion that this application was ever under a secrecy order.

Day : Sunday
Date: 9/21/2008

PALM INTRANET

Time: 15:32:23

PTA Calculations for Application: 11/013253			
Application Filing Date:	12/14/2004	PTO Delay (PTO):	664
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	924
Post-Issue Petitions:	0	Total PTA (days):	664
PTO Delay Adjustment:	924		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
52	09/21/2008	ADJUSTMENT OF PTA CALCULATION BY PTO	924		
43	05/28/2008	MAIL NOTICE OF ALLOWANCE			
42	05/26/2008	ISSUE REVISION COMPLETED			
41	05/26/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
40	05/26/2008	DOCUMENT VERIFICATION			
39	05/26/2008	NOTICE OF ALLOWABILITY			
36	04/15/2008	DATE FORWARDED TO EXAMINER			
35	03/10/2008	RESPONSE AFTER NON-FINAL ACTION			
34	11/30/2007	ELECTRONIC INFORMATION DISCLOSURE STATEMENT		924	17
33	12/10/2007	MAIL NON-FINAL REJECTION	664		-1
32	12/08/2007	NON-FINAL REJECTION			
30	12/14/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	09/08/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
28	11/30/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
27	11/30/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
23	10/17/2007	WITHDRAW FLAGGED FOR 5/25			
22	10/15/2007	FLAGGED FOR 5/25			
21	10/15/2007	FLAGGED FOR 5/25			
20	08/28/2007	CASE DOCKETED TO EXAMINER IN GAU			
19	09/08/2006	REFERENCE CAPTURE ON IDS			
		INFORMATION DISCLOSURE STATEMENT (IDS)			

18.7	09/08/2006	FILED			
18	09/08/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	05/20/2005	APPLICANT RESPONSE RECEIVED			
16	05/16/2005	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
15	05/16/2005	RECEIPT OF ACKNOWLEDGMENT LETTER			
14	04/21/2005	REQUEST FOR APPLICANT STATEMENT REGARDING POTENTIAL NASA INTEREST (45-DAY LETTER) MAILED			
13	03/24/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12.7	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	12/14/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
11	03/24/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	03/03/2005	AGENCY REFERRAL LETTER MAILED			
9	03/03/2005	APPLICATION RETURN FROM OIPE			
8	03/03/2005	APPLICATION RETURN TO OIPE			
7	03/03/2005	APPLICATION DISPATCHED FROM OIPE			
6	03/03/2005	APPLICATION IS NOW COMPLETE			
5	03/01/2005	REFERRED FOR NASA PROPERTY RIGHTS REVIEW BY L&R LARS			
4	03/01/2005	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED			
3	01/21/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
2	12/31/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/14/2004	INITIAL EXAM TEAM NN			

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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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/14/07

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/013255** Patent No **7152008**

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

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

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

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

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

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

Comments: _____

3/19/07 _____ **SPE** 2863 **Art Unit**

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office
Supervisory Patent Examiner
Technology Center 2800

UNITED STATES PATENT AND TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

Paper No: 03032005

Frank C. Eisenshenk
Saliwanchik, Loyd & Saliwanchik
A Professional Association
P. O. Box 142950
Gainesville, FL 32614-2950

In re Application of: Shapira *et al.*
Application No.: 11013259
Filed: 15 Dec 2004

Attorney Docket No.: UF-260XCD1
For: Treatments For Neurogenetic Disorders, Impulse Control Disorders, and Wound Healing

DECISION ON PETITION TO ACCEPT COLOR DRAWINGS

This is in response to applicant's petition filed 26 Sep 2003 under 37 C.F.R. 1.84 to use color drawings in the application is noted. Applicant has (A) paid the appropriate petition fee; (B) provided three (3) copies of formal color drawings; (C) the black and white photocopy of the drawings in the image file wrapper will suffice for 37 C.F.R. 1.84(a)(2)(iii); and (D) the specification contains appropriate language at page 8, paragrpah 19 for incorporation of color drawings under 37 C.F.R. 1.84(a)(2)(iv).

Applicant's petition is GRANTED.

Questions with regard to this letter should be directed to the undersigned as indicated below.

Christopher S. F. Low
Supervisory Patent Examiner
Art Unit 1614 (571) 272-0951
Christopher.low@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
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KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

MAILED

SEP 11 2009

OFFICE OF PETITIONS

In re Application of	:	
Mark C. Anderson	:	
Application No. 11/013,261	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. SNS0003/US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 20, 2009.

The request is **APPROVED**.

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

The request was signed by Paul John Parins on behalf of all attorneys of record who are associated with customer No. 33072. All attorneys/agents associated with the Customer Number 33072 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

There is an outstanding Office action mailed July 16, 2009 that requires a reply from the applicant.

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

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

cc: MARC C. ANDERSON
5001 DOMINICK DRIVE
MINNETONKA, MN 55343

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
11/013,261	12/14/2004	Mark C. Anderson	SNS0003/US

CONFIRMATION NO. 7968

POWER OF ATTORNEY NOTICE

33072
KAGAN BINDER, PLLC
SUITE 200, MAPLE ISLAND BUILDING
221 MAIN STREET NORTH
STILLWATER, MN 55082

OC000000037693168

Date Mailed: 09/08/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/20/2009.

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

/amwise/

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

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SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 04/23/2010

Applicant	: Bernhard Braun	: DECISION ON REQUEST FOR
Patent Number	: 7593930	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,277	: 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 **285** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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SAP AG
3410 HILLVIEW AVENUE
PALO ALTO, CA 94304

Mail Date: 04/23/2010

Applicant	: Bernhard Braun	: DECISION ON REQUEST FOR
Patent Number	: 7580915	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,278	: 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 **304** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

In re Application of	:	
Michelle L. Gardner et al.	:	
Application No. 11/013,297	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. 04SD-114452	:	FROM RECORD
	:	

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 21, 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.

Terri Williams for

Denise Pothier
Petitions Examiner
Office of Petitions

cc: **Scott Patrick Barlow Esq.**
ValueClick Inc.
30699 Russell Ranch Road, Suite 250
Westlake Village, CA 91362

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333 SOUTH HOPE STREET
48TH FLOOR
LOS ANGELES CA 90071-1448

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OFFICE OF PETITIONS

In re Application of

Michelle L. Gardner et al.
Application No. 11/013,297
Filed: December 15, 2004
Attorney Docket No. 04SD-114452

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ***client acquired by another company. We have not been retained as their counsel and do not represent the new owner of these applications***, do not meet any the conditions set forth in 37 CFR 10.40.

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

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Scott Patrick Barlow Esq.,**
ValueClick Inc.
30699 Russell Ranch Road, Suite 250
Westlake Village, CA 91362

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW DEPARTMENT
CABOT CORPORATION
157 CONCORD ROAD
BILLERICA, MA 01821

Mail Date: 04/21/2010

Applicant	: Stephane F. Rouanet	: DECISION ON REQUEST FOR
Patent Number	: 7635411	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **492** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
P.O. BOX 2168
MENLO PARK, CA 94026

In re Application of

Hongyu Wu :

Application No. 11/013,309

: DECISION ON PETITION

Filed: December 14, 2004

:

Attorney Docket No. 37469-8034.US01

This is a decision on the petition under 37 CFR 1.137(b), filed, November 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 24, 2006, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 25, 2006. A Notice of Abandonment was mailed on October 11, 2006.

The amendment filed November 13, 2006, is noted.

The application is being forwarded to Technology Center 3700, GAU 3727 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FEB - 4 2005

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

In re Application of:	:
David Baulcombe	:
Serial No.: 11/013,316	: PETITION TO MAKE SPECIAL
Filed: December 17, 2004	:
Attorney Docket No.: 101044.53943D3	:

This is in response to applicant's petition filed December 17, 2004, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on applicants who are small entities having applications relating to biotechnology.

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

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

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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

Mail Date: 06/15/2010

Applicant	: Tsunemori Asahi	: DECISION ON REQUEST FOR
Patent Number	: 7663705	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,336	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1104** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

5-22-07

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

Patent No. : 7,117,208
Ser. No. : 11/013,339
Inventor(s) : Pablo Tamayo, et. al.
Issued : October 3, 2006
Title : ENTERPRISE WEB MINING SYSTEM AND METHOD
Docket No. : 19111.0165

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Michael A Schwartz
Bingham McCutchen
2020 K. Street, NW
Washington, DC 20006-1806

ej

UNITED STATES PATENT AND TRADEMARK OFFICE

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

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OFFICE OF PETITIONS

In re Application of	:	
Shunpei Yamazaki	:	
Application No. 11/013,370	:	DECISION GRANTING PETITION
Filed: December 17, 2003	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7456	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 18, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 14, 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 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070307

DATE : March 7, 2007

TO SPE OF : ART UNIT 2812

SUBJECT : Request for Certificate of Correction on Patent No.: 6936894

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - PK 3-910
Palm location **7590** - Tel. No. 305-8201

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

Thank You For Your Assistance **Certificates of Correction Branch**

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

☒ **Approved** **All** changes apply.

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

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

Comments:

SPE: Michael Lebentritt **Art Unit** 2812

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date : March 23, 2007

Patent No. :7,128,386
Inventor(s) :Kia Silverbrook
Issued :October 31, 2006
Title :PRINTER WITH CAPACITIVE PRINTER CARTRIDGE DATA READER
Docket No. :XMB061US

Re: Request for Certificate of Correction

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

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

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

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

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

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

By mail: Mail Stop PETITIONS

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

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

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

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

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-

Mr.Kia Silverbrook
Silverbrook Research Pty ltd
393 Darling Street
Balmain, NSW 2041

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20070618

DATE : June 18, 2007

TO SPE OF : ART UNIT 2861

SUBJECT : Request for Certificate of Correction on Patent No.: 7128386

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:

MATTHEW LUU
SUPERVISORY PATENT EXAMINER

SPE: Luu Matthew **Art Unit** 2861

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORRISON & FOERSTER
1650 TRYSONS BLVD
SUITE 300
MCLEAN, VA 22102

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SEP 0 5 2006

OFFICE OF PETITIONS

In re Application of
Timothy M. Cortes et al
Application No. 11/013,394
Filed: December 17, 2004
Attorney Docket No. 337842011900

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2005.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, Application is being transferred to another attorney, do not appear to 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 June 29, 2005 does include a copy of an executed assignment, but does not have a statement affirming that the evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation.

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

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Rick Bauer, Esq.
Katten, Muchin, Zavis and Rosenman
1025 Thomas Jefferson Street, N.W.
Suite 700 East
Washington, DC 20007-5201

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

DAVIDE SALVATORE DONATO
3975 LLOYDTOWN ROAD
KETTLEBY L0J 1J0 CA CANADA

MAILED

AUG 12 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of	:
Davide Salvatore Donato	:
Application No. 11/013,399	:
Filed: December 17, 2004	:
Attorney Docket No. 2002-7424	:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

This application became abandoned by operation of law for a failure to timely pay the balance of the issue and publication fees on or before February 26, 2008, as required by the Notice mailed November 26, 2007. However, on January 1, 2008, the application issued as U.S. Patent No. 7,315,334. On January 7, 2009, the present petition to revive under the provisions of 37 CFR 1.137(b) was filed, along with the balance of the issue fee.

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), 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 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 does not comply with item 3. First, it appears that the statement of unintentional delay is not signed by a person who would have been in a position of knowing that the entire delay in filing the required reply was unintentional. In this regard, the record indicates that petitioner was not responsible for prosecution of the application when the reply necessary to avoid abandonment was due. Secondly, there is no statement from applicant regarding the delay in filing the balance of the issue fee and the delay in filing the initial petition pursuant to 37 CFR 1.137(b) nor does petitioner offer an explanation as to the reason there was a delay in responding to the Notice and the delay in filing the initial petition to revive. Therefore, before the statement of unintentional delay can be accepted, an explanation of the cause of 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) must be provided.

Petitioner should note that the Power of Attorney, filed October 23, 2008, could not be accepted because it is illegible. However, in accordance with 37 CFR 1.134, the signature of Ms. Cynthia Kozakiewicz appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts. While a courtesy copy of this decision is being mailed to Ms. Kozakiewicz, the petitioner herein, all future correspondence will be mailed solely to the correspondence address of record.

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

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

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

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

By Internet: EFS-Web[1]

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

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

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CYNTHIA KOZAKIEWICZ
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

[1] 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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DAVIDE SALVATORE DONATO
3975 LLOYDTOWN ROAD
KETTLEBY L0J 1J0 CA CANADA

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NOV 23 2009

OFFICE OF PETITIONS

In re Application of	:	
Davide Salvatore Donato	:	
Application No. 11/013,399	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 2002-7424	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 13, 2009 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for a failure to timely pay the balance of the issue fee on or before February 26, 2008, as required by the Notice to Pay Balance of Issue Fee mailed November 26, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned by operation of law on February 27, 2008. However, on January 1, 2008, the application issued as U.S. Patent No. 7,315,334. On January 7, 2009, a petition under 37 CFR 1.137(b) was filed; however, the petition was dismissed in a decision mailed August 12, 2009. In response the present petition was filed.

The present petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the balance of the issue fee of $55, (2) the petition fee of $810, and (3) an adequate statement of unintentional delay. Accordingly, the failure to timely submit the balance of the issue fee as required by the Notice to Pay Balance of Issue Fee is accepted as being unintentionally delayed.

If the person signing the petition desires to receive future correspondence regarding this application, a legible 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 Alicia Kelley at (571)272-6059.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: CYNTHIA KOZAKIEWICZ
MINTZ LEVIN COHN FERRIS GLOVSKY AND POPEO, PC
ONE FINANCIAL CENTER
BOSTON, MA 02111

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPTOE & JOHNSON LLP
1330 CONNECTICUT AVENUE, N.W.
WASHINGTON, DC 20036

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JAN 17 2007

OFFICE OF PETITIONS

In re Application of	:	
Niels Michael Barfod et al	:	
Application No. 11/013,424	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 14923.0010	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 28, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1761 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
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

BANNER & WITCOFF
1001 G. Street N.W.
Suite 1100
Washington, DC 20001

JAN 12 2006

In re Application of:	:	
Masaki Katagiri, et al.	:	DECISION ON PETITION
Serial No.: 11/013,433	:	FOR CONSIDERATION OF IDS AND
Filed: December 17, 2004	:	PRIORITY CLAIM
Attorney Docket No.: **1458.00051**	:	

This is a decision in response to the communication filed December 21, 2005. The communication has been treated as a petition under 37 C.F.R. § 1.181, to consider the Information Disclosure Statement (IDS) filed on December 17, 2004 and the claim for Foreign Priority filed on December 17, 2004. No petition fee is required.

The petition is **GRANTED**.

The post card receipt provided by applicant indicates that the USPTO acknowledged receipt of the Foreign Priority Document and the references accompanying the IDS in the parent application 10/180,112, thus satisfying the requirements for granting the foreign priority and for consideration of the IDS, and accordingly, the petition is granted.

Any inquiry regarding this decision should be directed to David P. Porta, Supervisory Patent Examiner, at (571) 272-2444.

The application file will continue to be processed for issuance of a patent.

Janice A. Falcone

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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JUN 0 3 2008

OFFICE OF PETITIONS

In re Patent No. 7,030,379	:	
Application No. 11/013,433	:	
Filed: December 17, 2004	:	ON PETITION
Issued: April 18, 2006	:	
Attorney Docket No. 1975.1107C	:	

This is a decision on the petition filed December 11, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

6-19-09

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7,427,670
Ser. No. : 11/013,435
Inventor(s) : Samuel S. Chuang, et. al.
Issued : September 23, 2008

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1583 or 1580

Eric M. Brusca
Marshall, Gerstein & Borun
233 S. Wacker Drive, Suite 6300
Sears Tower
Chicago, Illinois 60606-6357

ej

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 MUCZYNSKI
MARSHALL, GERSTEIN & BORUN LLP
SEARS TOWER
233 S. WACKER DRIVE, SUITE 6300
CHICAGO, IL 60606-6357

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OFFICE OF PETITIONS

In re Patent No. 7,427,670	:	
Issue Date: September 23, 2008	:	
Application No. 11/013,435	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 31138/40982	:	

This is a decision on the petition filed August 13, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee information on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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BACON & THOMAS, PLLC
625 SLATERS LANE, FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

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FEB 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Michael S. GOLIGORSKY, et al	:	
Application No. 11/013,457	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. GOLI3001C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 29, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 30, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of $810; and (3) the required statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 1655 for appropriate action by the Examiner in the normal course of business on the reply received December 24, 2008.

Thurman Page
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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MCDERMOTT WILL & EMERY
600 13TH STREET, N.W.
WASHINGTON DC 20005-3096

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JAN 10 2006

OFFICE OF PETITIONS

In re Application of :
Kazuma Kan et al :
Application No. 11/013,465 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No. 50099-303 :

This is a decision on the petition, filed January 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 16, 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 2861 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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

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

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Kan Frankie Fan	: DECISION ON REQUEST FOR
Patent Number	: 7617291	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,494	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1274** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

PVF -- SUN MICROSYSTEMS INC.
C/O PARK, VAUGHAN & FLEMING LLP
2820 FIFTH STREET
DAVIS, CA 95618-7759

Mail Date: 04/21/2010

Applicant	: David Vengerov	: DECISION ON REQUEST FOR
Patent Number	: 7665092	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,498	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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International Business Machines Corporation
9000 South Rita Road
Tucson, AZ 85744

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OFFICE OF PETITIONS

In re Application of	:	
Thomas William Haberman	:	
Application No. 11/013,520	:	DECISION ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No. TUC920040094	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 1, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 29, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed May 29, 2007. Accordingly, the date of abandonment of this application is August 30, 2007. A Notice of Abandonment was mailed on September 24, 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 $1,440.00 and the publication fee of $300, (2) the petition fee of $1,540.00, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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MICHAEL W. STARKWEATHER
SUITE 200
9035 SOUTH 1300 EAST
SANDY, UTAH 84094

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JUN 06 2006
OFFICE OF PETITIONS

In re Application of	:	
Oren Lynn Morgan et al	:	
Application No. 11/013,525	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 3173.2.1 NP	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed August 8, 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 3634 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 04/21/2010

Applicant	: Harald Lichtinger	: DECISION ON REQUEST FOR
Patent Number	: 7578198	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,528	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **803** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
WWW.USPTO.GOV

Paper No. None

HOFFMANN-LA ROCHE INC.
PATENT LAW DEPARTMENT
340 KINGSLAND STREET
NUTLEY NJ 07110

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OFFICE OF PETITIONS

In re Application of :
Horst Klima et al. :
Application No. 11/013,560 : DECISION ON PETITION
Filed: December 16, 2004 :
Attorney Docket No.: :
22351 :
Title: METHOD OF TREATING :
DISTURBANCES OF IRON DISTRIBUTION :
IN INFLAMMATORY INTESTINAL
DISEASES

This is a decision on the petition filed February 7, 2005, requesting that the above-identified application, including Figures 1-2, be accorded a filing date of December 16, 2004 as part of the original disclosure.

The application was deposited on December 16, 2004. However, on January 26, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application" (notice), stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the deposit of drawings.

In response, on February 7, 2005, applicants filed the present petition. The petition is further accompanied by a copy of Figures 1-2, along with a copy of applicants' postcard receipt acknowledging receipt of "Drawings, (informal) 1 Sheets 2 Figures" in the United States Patent and Trademark Office (Office) on December 16, 2004. Applicants request that Figures 1-2 be accorded a filing date of December 16, 2004.

It is noted that 1 page of drawings containing Figures 1-2 has been located among the application papers. Therefore, the application, including Figures 1-2, was complete on filing and entitled to a filing date of December 16, 2004 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed January 26, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee will be refunded to Petitioner's Deposit Account, as authorized in the petition.

The application file is being returned to OIPE for further processing with a filing date of December 16, 2004, using the original application papers filed on that date, as well as Figures 1-2 submitted on February 7, 2005, and for noting in Office records that this sheet was present on filing.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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P.O. Box 1450
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REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO CA 94111

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OCT 0 4 2006
OFFICE OF PETITIONS

In re Application of	:	
Berman	:	
Application No. 11/013,580	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. 56508.04400	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 14, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Doyle B. Johnson on behalf of all attorneys of record.

All attorneys/agents associated with this application have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ARTHUR BERMAN
10440 BUBB ROAD
SUITE B
CUPERTINO, CA 95014

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
11/013,580	12/16/2004	Arthur Berman	356508.04400

CONFIRMATION NO. 9161

OC000000020661737

OC000000020661737

58076
REED SMITH, LLP
TWO EMBARCADERO CENTER
SUITE 2000
SAN FRANCISCO, CA 94111

Date Mailed: 10/02/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/14/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, Virginia 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Mail Date: 05/05/2010

Applicant	: James Douglas Sweet	: DECISION ON REQUEST FOR
Patent Number	: 7650542	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **773** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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SEP 2 2 2006

OFFICE OF PETITIONS

In re Application of	:	
Tandriono, et al.	:	
Application No. 11/013,607	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. 005306.P122	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 16, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Blakely, Sokoloff, Taylor & Zafman, LLP has been revoked by the assignee of the patent application on September 5, 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 April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

UNITED STATES PATENT AND TRADEMARK OFFICE

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HITACHI C/O WAGNER BLECHER LLP
123 WESTRIDGE DRIVE
WATSONVILLE CA 95076

MAILED

JUL 02 2010

OFFICE OF PETITIONS

In re Application of :
Hwu :
Application No. 11/013,613 :
Filed: 3 May, 2007 :
Attorney Docket No: HSJ920040336US1 :

DECISION

This is a decision on the petition filed on 29 January, 2010, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay .

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

Petitioners attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

The Applicant failed to reply timely and properly to the Notice of Allowance/Allowability and Fees Due mailed on 7 April, 2009, with reply under a non-extendable deadline on or before 7 July, 2009.

The application went abandoned by operation of law after midnight 7 July, 2009. (Petitioner erroneously and improperly states this date as 31 July 2009.)

The Office mailed the Notice of Abandonment on 31 July, 2009.

On 29 January, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an authorization of fees due (now charged as authorized to Deposit Account 50-2587) and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[2] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Publications Branch to be processed into a patent in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Publications Branch in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the Publications Branch where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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MAIL

MAR 19 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

In re Application of
GERHARD, LUTZ, et al
Serial No.: **11/013,630**
Filed: **December 15, 2004**
For: **SEMANTICALLY APPLYING FORMATTING TO A PRESENTATION MODEL**

DECISION ON PETITION
ACCEPTANCE OF COLOR DRAWINGS

This is a decision on the petition under 37 C.F.R. § 1.84(a)(2), filed December 15, 2004, requesting acceptance of color drawings.

The petition requests that the color drawings identified in figures 1, 8A, 8B, and 10, be accepted in lieu of black and white drawings.

A grantable petition under 37 C.F.R. §1.84(a)(2) must be accompanied by a fee set forth under 37 C.F.R. § 1.17(h), 3(three) set of the color drawings in question, and the specification must contain, or be amended to contain, the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings:

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

The petition is GRANTED.

Kenneth Wieder
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of
Lutz Gerhard, et al.
Application No. 11/013,630
Filed: December 15, 2004
Attorney Docket No. 40062.289US01/MS310191.1

DECISION DISMISSING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 17, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

- A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until July 18, 2008. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $890 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8-27-08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/013686 Patent No.: 7405004

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should CofC be approved -

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

E. Yang

Certificates of Correction Branch
703-308-9390 ext. 117

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☐ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☒ **Denied** — State the reasons for denial below.

Comments: The claims in the issued patent are in proper form.

[signature] 1796
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : December 4, 2009

Patent No. : 7,405,006
Patent Issued : Jul. 29, 2008
Docket No. : P- 1902
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 .

The alleged error(s) The claims in the issued patent are in proper form. the patent is printed in accordance with the record .In view of the foregoing, your request, in this matter(s), is hereby denied.

Further consideration/reconsideration will be given upon receipt of a Request for Reconsideration under, under the provision of U.SC.254 or 255 (C.F.R. 1.322 or 1.323), accompanied by the appropriate response or fee of $100, which should be directed to Decisions & Certificates of Correction Branch.

Ennis Young
Legal Instrument Examiner
(703) 756-1542

For Mary Diggs, Supervisor
Decisions & Certificates of Correction Branch
(703) 756-1580 or (703) 756-1814 (Receptionist)

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.
11/013,690	12/17/2004	Pyung-Bin Lim	P57121	2547

7590 10/27/2008

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington, DC 20005

EXAMINER
TSANG, FAN S

ART UNIT	PAPER NUMBER
2614	

MAIL DATE	DELIVERY MODE
10/27/2008	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.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Refund Ref:
10/27/2008 NFARMER 0000164884

CHECK Refund Total: $500.00

Adjustment date: 10/27/2008 NFARMER
12/21/2004 DTESSEM1 00000020 11013690
02 FC:1111 -500.00 OP

FORM PET651G (Rev. 08/07)

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TODD E. ZENGER
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60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of
Ben L. Seegmiller
Application No. 11/013,706
Filed: December 16, 2004
Attorney Docket No. 12637.4

ON PETITION

This is a decision on the petition filed October 16, 2007, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned April 16, 2007 for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 14, 2007 and which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed October 15, 2007.

The file record discloses that the Notice was mailed to what was believed to be the address of record. However, petitioner contends that it was not received.

Unfortunately, the requirement under 37 CFR 1.181, is that petitioner review the docket records and submit copies of the actual docket records or file jacket to show non-receipt. That requirement has not been met. In a petition under 37 CFR 1.181 the petitioner must show, as in this instance where non-receipt is claimed that petitioner is without fault in not receiving the communication. 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 at the address of record.

The statements are not enough to substantiate the claim of non-receipt and no other corroborating evidence to prove non-receipt has been presented. In view thereof, the holding of abandonment cannot be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b)..

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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KIRTON & MCCONKIE
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SALT LAKE CITY UT 84111

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of
Ben L. Seegmiller
Application No. 11/013,706
Filed: December 16, 2004
Attorney Docket No. 12637.4

ON PETITION

This is a decision on the renewed petition filed December 17, 2007, to withdraw the holding of abandonment under 37 CFR 1.181, in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition under 37 CFR 1.181(b) is **DISMISSED.**

This application became abandoned April 16, 2007 for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 14, 2007 and which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed October 15, 2007. Although the file record discloses that the Notice was mailed to what was believed to be the address of record, a petition contending that it was not received was filed October 16, 2007. The petition was dismissed in a decision mailed November 9, 2007 because the requirement under 37 CFR 1.181 for copies of the actual docket records or file jacket to show non-receipt had not been submitted.

Comes now petitioner with the instant renewed petition and copies of a docket record to show non-receipt.

While petitioners have provided copies of their docket, the evidence presented does not make a showing that the office action was not received at the address to which it is was properly sent by the USPTO. The period covered by the records provided ends with the March 1, 2007 response. A true docket record should be inclusive of all actions for the instant application and would include the Notice of Abandonment mailed October 15, 2007, the petition filed October 16, 2007 and the decision mailed November 9, 2007. It can't be determined from the docket record submitted whether or not the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 14, 2007 was received. To show non-receipt, more convincing evidence would not end with the March 1, 2007 response filed by petitioner.

As non-receipt has not been established, this application became properly abandoned April 16, 2007 for failure to file a timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 14, 2007 .

In view thereof, the holding of abandonment will not be withdrawn.

ALTERNATIVE VENUES

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(a)[1] or 37 CFR 1.137(b),[2] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional

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[1]A grantable petition under 37 CFR 1.137(a) must be accompanied by:

(1) the required reply, unless previously filed; In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(l);

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

[2]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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KIRTON & MCCONKIE
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SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

In re Application of :
Ben L. Seegmiller :
Application No. 11/013,706 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. 12637.4 :

This is a decision on the petition, filed February 1, 2008 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 16, 2007 for failure to timely reply to the Notice of Non-Compliant Amendment (37 CFR 1.121), mailed March 14, 2007 and which set a one month period for reply. Accordingly, a Notice of Abandonment was mailed October 15, 2007.

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by:

(1) the required reply (unless previously filed), which may be met by the filing of a continuing application in a nonprovisional application abandoned for failure to prosecute, but must be the payment of the issue fee or any outstanding balance thereof in an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof;

(2) the petition fee required by 37 CFR 1.17(l);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) a terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) in a design application, a utility application filed before June 8, 1995, or a plant application filed before June 8, 1995.

A supplemental amendment is submitted with the petition to revive.

This matter is being referred to Technology Center 3672 for processing of the amendment filed February 1, 2008.

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

UNITED STATES DEPARTMENT OF COMMERCE
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FAY SHARPE/LUCENT
1228 Euclid Avenue, 5th Floor
The Halle Building
Cleveland, OH 44115-1843

Mail Date: 07/29/2010

Applicant	: David S. Benco	: DECISION ON REQUEST FOR
Patent Number	: 7653046	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,732	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1440** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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KUSNER & JAFFE
HIGHLAND PLACE SUITE 310
6151 WILSON MILLS ROAD
HIGHLAND HEIGHTS OH 44143

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OFFICE OF PETITIONS

Applicant: Thallner
Appl. No.: 11/013,734
Filing Date: December 16, 2004
Title: ALIGNMENT DEVICE
Attorney Docket No.: BE9007US
Pub. No.: US 2005/0146169 A1
Pub. Date: July 7, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 7, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors on the front page of the publication as the residence of the inventor "St. Florian" is misprinted as "Florian", paragraph [0052] "arrow α" is misprinted as "arrow a", paragraph [0054] the period at the end of the sentence ending in "22a" is missing and claim 1, "(x, y, α)" is misprinted as "(x, y, a)."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor with respect to the residence of the inventor "St. Florian" being misprinted as "Florian" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The mistake is a minor typographical, which does not affect the understanding of the application. 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

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The errors in paragraph [0052] "arrow α" is misprinted as "arrow a", paragraph [0054] the period at the end of the sentence ending in "22a" is missing and claim 1, "(x, y, α)" is misprinted as "(x, y, a)." are not material Office mistakes under 37 CFR 1.221. The errors noted by requestor in this published application are due to the poor quality of the text in the application, as it is not clear that the symbol "α" is not the character "a"

Applicant is advised that he may want to file application papers that are clearer, as some of the errors are due to the quality of the text. Some of the text in the application is small, blurry and not clear, which makes it 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.

On February 2, 2005, a Filing Receipt was mailed by the Office, which improperly listed the inventive entity. To avoid this type of problem in the future, applicant's representative should review the Filing Receipt and make a request for a Corrected Filing Receipt.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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DEC 28 2007

OFFICE OF PETITIONS

In re Application of	:	
Frederic TANGY, et al	:	
Application No. 11/013,786	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO WITHDRAW
Attorney Docket No. 03495.0384	:	FROM RECORD

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 21, 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).

Deborah Katz has been withdrawn as attorney of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no outstanding Office actions pending at the present time.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of
Clancy, et al.
Application No. 11/013,790
Deposited: December 17, 2004
Attorney Docket No. 1875.6880001
For: A RECONFIGURABLE TRANSCEIVER ARCHITECTURE FOR FREQUENCY OFFSET GENERATION

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.53(e), filed April 11, 2005, requesting that the above-identified application be accorded a filing date of December 17, 2004.

The application was deposited on December 17, 2004. On February 22, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners that no filing date had been accorded to the application papers deposited on December 17, 2004 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the above-identified application be accorded a filing date of December 17, 2004 on the basis that 6 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on December 17, 2004. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt datestamped by the Office of Initial Patent Examination on December 17, 2004. The postcard lists, *inter alia*, that the filing includes 6 sheets of drawings.

The return postcard constitutes *prima facie* evidence that 6 sheets of drawings were filed on December 17, 2004. MPEP 503. Accordingly, the request is granted.

The $400 petition fee charged on April 13, 2005 will be credited to petitioners' credit card in due course.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **December 17, 2004**, using the copy of the 6 sheets of drawings submitted with the instant petition. Office records will be corrected to show that 6 sheets of drawings were present on filing.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DENNISON, SCHULTZ & MACDONALD
1727 KING STREET
SUITE 105
ALEXANDRIA VA 22314

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DEC 17 2008

In re Application of
Fecher, et al.
Application No. 11/013,795
Filed: December 17, 2004
Attorney Docket No. 04237
For: METHOD FOR PRODUCING A DENTAL CERAMIC STRUCTURE

: ON PETITION

This is a decision on the correspondence entitled, "PETITION TO WITHDRAW HOLDING OF ABANDONMENT," filed November 28, 2008. The petition will be treated under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**.

This application was held abandoned due to applicants' alleged failure to reply within an extendable three month period of the mailing of the April 17, 2008 non-final Office action. The Office contended that this application became abandoned on July 18, 2008. A Notice of Abandonment was mailed on November 20, 2008.

Petitioners assert that a reply was timely received in the Office on July 14, 2008. 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 14, 2008 as the date of receipt, affixed thereto. The postcard lists, *inter alia*, that the filing included a "OA Response" for Application No. 11/013,795.

The return postcard constitutes *prima facie* evidence that the items listed thereon were received in the Office on July 14, 2008. MPEP 503. Petitioners have provided a copy of the July 14, 2008 correspondence. – it is an amendment. Accordingly, the petition to withdraw the holding of abandonment is granted.

After the mailing of this decision, the application file will be returned to Technology Center A.U. 1791 for consideration of the amendment filed on July 14, 2008 and resubmitted with the present petition on November 28, 2008.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

Robert E. Bushnell
Suite 300
1522 K Street, N.W.
Washington DC 20005

In re Application of:
KO, EUN-SOOK, et al.
Application Serial No.: 11/013,802
Filed: December 17, 2004
For: **DISTRIBUTED ROUTER**

DECISION
ON PETITION

This is a decision on the petition, under 37 C.F.R. §1.181, filed on October 12, 2007 requesting the withdrawal of the requirement to label Figure 1 as "Prior Art".

The petition is **GRANTED**.

A review of the record indicates that Figure 1 as originally filed and discussed was not referred to in the original disclosure as "prior art." Hence, in keeping with the disclosure and applicant's arguments, the requirement to label this figure as "Prior Art" is withdrawn.

Andrew Faile, Director
Technology Center 2600
Communications

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BARLOW, JOSEPHS & HOLMES, LTD.
101 DYER STREET
5TH FLOOR
PROVIDENCE RI 02903

In re Application of
Zimbone et al.
Application No. 11/013,815
Filed: December 16, 2004
For: SHELLFISH CRACKING DEVICE

DECISION ON PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

This is a decision on the Petition to Withdraw the Holding of Abandonment filed in the United States Patent and Trademark Office on October 21, 2005. There is no fee for this petition.

The petition is **GRANTED** in view of the following evidence of timely filing:

☐ Postcard receipt being dated_____.

☒ USPTO return facsimile receipt dated June 21, 2005.

☐ Certificate of Mailing/Transmission signed on _____, and supported by a statement under 37 C.F.R. 1.8(b)(3).

☐ Hand Delivery Receipt of the specific documents submitted, dated _____.

☐ Certificate of Transmission of CPA under 37 C.F.R. 1.6 filed on _____.

☐ Express Mail Receipt under 37 C.F.R. 1.10 dated _____.

☐ Originally sent response, filed _____.

This application is being forwarded to the Supervisory Legal Instruments Examiner for withdrawal of the abandonment and then to the examiner for prompt action.

KJD/rjc: 10/26/05

KENNETH J. DORNER
SPECIAL PROGRAMS EXAMINER
TECHNOLOGY CENTER 3600

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL L. WEINER
TECHNOLOGY INNOVATIONS
SUITE 215
150 LUCIUS GORDON DRIVE
WEST HENRIETTA, NY 14586

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MAY 0 4 2006

OFFICE OF PETITIONS

In re Application of	:	
Sarah M. Cooper et al	:	
Application No. 11/013,821	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. SMC-670	:	FROM RECORD
	:	

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 30, 2005.

The petition is **NOT APPROVED** as moot.

A review of the file record indicates that the previously appointed power of attorney has been revoked by the assignee. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicants.

This application is being referred to Technology Center AU 1764.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BUCHANAN INGERSOLL
(INCLUDING BURNS DOANE SWECKER & MATHIS)
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

UNITED STATES PATENT AND TRADEMARK OFFICE

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OCT 12 2006
OFFICE OF PETITIONS

GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
EXCHANGE PLACE
BOSTON, MA 02109-2881

In re Application of :
Eugene A. Fitzgerald et al :
Application No. 11/013,838 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. ASC-042C2

This is a decision on the petition filed, October 11, 2006 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 31, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2812 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MORRIS & ASSOCIATES
P.O. BOX 1993
15312 RYAN AVENUE
PRAIRIEVILLE, LA 70769

COPY MAILED

JAN 30 2008

OFFICE OF PETITIONS

In re Application of :
Sidney Kylie Burch :
Application No. 11/013,850 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. BUR 100 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 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 Notice to File Corrected Application Papers (Notice) mailed October 21, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 22, 2005.

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 $795 extension of time submitted with the petition on September 24, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

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

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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P.O. BOX 1993
15312 RYAN AVENUE
PRAIRIEVILLE, LA 70769

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MAY 05 2009

OFFICE OF PETITIONS

In re Application of :
Sidney Kylie Burch :
Application No. 11/013,850 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. BUR 100 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 15, 2009, 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 February 28, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on April 29, 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). Accordingly, since the $865 extension of time submitted with the petition on April 15, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit to petitioner's credit card.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to the Office of Patent Application Processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Terry B. Morris
P.O. 397
Pass Christian, MS 39571

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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AUG 29 2006
OFFICE OF PETITIONS

ANDRE L. MARAIS
SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH
99 ALMADEN BLVD., SUITE 520
SAN JOSE, CA 95113

In re Application of	:	
Kevin T. Collins	:	
Application No. 11/013,853	:	DECISION ON REQUEST
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. 2046.012US2	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed April 7, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Andrea L. Marais and all the attorneys/agents of record associated with Customer No. 21186 was revoked by the assignee of the patent application on May 15, 2006. Accordingly, the request to withdraw under 37 CFR §1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

There is no outstanding Office action that requires a reply from applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: WELSH & KATZ, LTD
120 S RIVERSIDE PLAZA
22ND FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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ADELI & TOLLEN, LLP
1875 CENTURY PARK EAST, SUITE 1360
LOS ANGELES CA 90067

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OCT 1 0 2008

OFFICE OF PETITIONS

In re Application of	:
Gallagher et al.	:
Application No. 11/013,883	: DECISION GRANTING PETITION
Filed: December 15, 2004	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. KNTO.P0017	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 28, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application Nos. 60/419,785 and 60/552,455, filed October 18, 2002 and March 12, 2004, respectively, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application and the intermediate nonprovisional application were both filed within twelve months of the filing date of the above-noted, prior-filed provisional applications, 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 2617 for appropriate action on the amendment submitted August 28, 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to above-noted, prior-filed provisional applications.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/013,883	12/15/2004	2617	4800	KNTO.P0017	12	3

CONFIRMATION NO. 4301

CORRECTED FILING RECEIPT

48947
ADELI & TOLLEN, LLP
1875 CENTURY PARK EAST, SUITE 1360
LOS ANGELES, CA 90067

OC000000032507435

Date Mailed: 10/08/2008

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)

Michael D. Gallagher, San Jose, CA;
Joseph G. Baranowski, Morgan Hill, CA;
Jlanxiong Shi, Pleasanton, CA;
Milan Markovle, Pleasanton, CA;
Rajeev Gupta, Sunnyvale, CA;

Power of Attorney:
John Stattler--36285
Mani Adeli--39585
Ali Makoui--45536
Gregory Suh--48187

Domestic Priority data as claimed by applicant

This application is a CIP of 10/688,470 10/17/2003 PAT 7,127,250
which claims benefit of 60/419,785 10/18/2002
This application 11/013,883
claims benefit of 60/530,141 12/16/2003 *
and claims benefit of 60/552,455 03/12/2004
(*)Data provided by applicant is not consistent with PTO records.

Foreign Applications

If Required, Foreign Filing License Granted: 02/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/013,883**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

Apparatus and method for extending the coverage area of a licensed wireless communication system using an unlicensed wireless communication system

Preliminary Class

455

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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 05/06/10 Paper No.: _____

TO SPE OF : ART UNIT 2161

SUBJECT : Request for Certificate of Correction for Appl. No.: 11013890 Patent No.: 7548918

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: _____

(APU MOFIZ) 2161
SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

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Jason D. Kelly
Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
St. Paul, MN 55125

Mail Date: 04/20/2010

Applicant	: Joseph L. Sullivan	: DECISION ON REQUEST FOR
Patent Number	: 7630762	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,894	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1256** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Jason D. Kelly
Shumaker & Sieffert, P.A.
1625 Radio Drive
Suite 300
St. Paul, MN 55125

Mail Date: 05/17/2010

Applicant : Joseph L. Sullivan
Patent Number : 7630762
Issue Date : 12/08/2009
Application No : 11/013,894
Filed : 12/15/2004

: 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 **1291** 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.: ____

DATE : 1/11/07

TO SPE OF : ART UNIT 2818

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/013910 Patent No.: 7112822 B2

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Virginia Tolbert
Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: _____

Steven Loke — SPE

2818 — Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Wyeth/Latimer & Mayberry IP Law, LLP
13873 Park Center Road
Suite 106
Herndon, VA 20171

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AUG 05 2009

OFFICE OF PETITIONS

In re Application of :
Jacobs et al. :
Application No. 11/013,920 : LETTER REGARDING
Filed: December 17, 2004 : PATENT TERM ADJUSTMENT
Atty Docket No. WYT-109-02 :

This letter is in response to the "Letter Regarding Patent Term Adjustment" filed May 13, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

The request for review of the patent term adjustment is **GRANTED.**

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 158 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On April 20, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 251 days. The patent term adjustment was based on a USPTO delay of 439 days including 93 days due to the Notice of Allowance mailed April 20, 2009. Applicants request that the Office review and explain the basis for accrual of the 93-day delay.

A review of the record reveals that the entry of the period of adjustment for Office delay of 93 days is incorrect.

The patent term adjustment on the Determination of Patent Term Adjustment included 93 days of Office delay based on the fact the Notice of Allowance was mailed four months and 93 days after the filing of a Notice of Appeal. This is not a proper basis for entry of a period of adjustment. Pursuant to 37 CFR 1.702(a)(2), the failure of the Office to 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 is a basis for entry of a period of adjustment. However, "the date on which" an "appeal was taken" in 35 U.S.C. 154(b)(1)(A)(ii) means the date on which an appeal brief (and not a notice of appeal) was filed.

The Notice of Appeal filed September 17, 2008 did not include an appeal brief and an appeal brief was not subsequently filed. Rather, on March 25, 2009 (and on April 13, 2009), applicants filed additional amendments. In this instance, no appeal was taken within the meaning of §1.702(a)(2). Therefore, an increase in the amount of Office delay due to the Office's failure to mail an examiner's answer under § 41.39 of this title, an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, within four months of the date on which an appeal was taken is improper. Moreover, entry of an adjustment for Office delay in responding to the replies filed March 25, 2009 and April 13, 2009 is not warranted.

Accordingly, the period of adjustment of 93 days for Office delay is being removed.

In view thereof, the patent term adjustment at the time of mailing of the notice of allowance is 158 days (346 days of Office delay reduced by 188 days of Applicant Delay).

As this letter was submitted as an advisement to the Office of an error in Patentee's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their 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 of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

PALM INTRANET

Day : Monday
Date: 8/3/2009
Time: 19:18:07

PTA Calculations for Application: 11/013920			
Application Filing Date:	12/17/2004	PTO Delay (PTO):	439
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	188
Post-Issue Petitions:	0	Total PTA (days):	158
PTO Delay Adjustment:	-93		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
86	08/03/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		93	
74	04/20/2009	MAIL NOTICE OF ALLOWANCE	93		49
73	04/14/2009	ISSUE REVISION COMPLETED			
72	04/14/2009	DOCUMENT VERIFICATION			
71	04/14/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
70	04/14/2009	CASE DOCKETED TO EXAMINER IN GAU			
69	04/14/2009	EXAMINER'S AMENDMENT COMMUNICATION			
68	04/13/2009	NOTICE OF ALLOWABILITY			
67	04/09/2009	DATE FORWARDED TO EXAMINER			
66	04/03/2009	SUPPLEMENTAL RESPONSE			
65	04/09/2009	EMAIL NOTIFICATION			
64	04/08/2009	PARALEGAL TD ACCEPTED			
63	04/03/2009	TERMINAL DISCLAIMER FILED			
62	04/09/2009	MAIL ADVISORY ACTION (PTOL - 303)			
55	04/06/2009	ADVISORY ACTION (PTOL-303)			
54	03/27/2009	DATE FORWARDED TO EXAMINER			
53	03/25/2009	AMENDMENT/ARGUMENT AFTER NOTICE OF APPEAL			
52	03/25/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
51	03/26/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
50	03/23/2009	CORRESPONDENCE ADDRESS CHANGE			
49	09/17/2008	NOTICE OF APPEAL FILED		92	47
48	09/17/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
47	03/17/2008	MAIL FINAL REJECTION (PTOL - 326)			

46	03/10/2008	FINAL REJECTION			
45	02/19/2008	DATE FORWARDED TO EXAMINER			
44	01/30/2008	RESPONSE AFTER NON-FINAL ACTION		92	42
43	01/30/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
42	07/30/2007	MAIL NON-FINAL REJECTION			
41	07/25/2007	NON-FINAL REJECTION			
40	07/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		4	36
39	07/03/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
38	07/03/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	07/07/2007	DATE FORWARDED TO EXAMINER			
36	06/29/2007	RESPONSE AFTER NON-FINAL ACTION			
35	06/13/2007	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
34	04/02/2007	CORRESPONDENCE ADDRESS CHANGE			
33	03/29/2007	MAIL NON-FINAL REJECTION			
32	03/27/2007	NON-FINAL REJECTION			
31	08/29/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
30	12/17/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
29	03/12/2007	DATE FORWARDED TO EXAMINER			
28	02/27/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
27	01/29/2007	MAIL RESTRICTION REQUIREMENT	346		-1
26	01/25/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
25.7	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
25	08/29/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
24	08/29/2005	PRELIMINARY AMENDMENT			
23	04/07/2005	CLEARED BY L&R (LARS)			
22	03/30/2005	CASE DOCKETED TO EXAMINER IN GAU			
21	12/17/2004	REFERENCE CAPTURE ON IDS			
20	02/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
19	02/15/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
18.7	12/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS)			

		FILED			
18	12/17/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17	12/17/2004	PRELIMINARY AMENDMENT			
16	02/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
15	01/31/2005	APPLICATION RETURN FROM OIPE			
14	01/31/2005	APPLICATION RETURN TO OIPE			
13	01/31/2005	APPLICATION RETURN FROM OIPE			
12	01/31/2005	APPLICATION IS NOW COMPLETE			
11	01/31/2005	APPLICATION RETURN TO OIPE			
10	01/31/2005	APPLICATION RETURN FROM OIPE			
9	01/31/2005	APPLICATION IS NOW COMPLETE			
8	01/31/2005	APPLICATION RETURN TO OIPE			
7	01/31/2005	APPLICATION DISPATCHED FROM OIPE			
6	01/31/2005	APPLICATION IS NOW COMPLETE			
5	01/08/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
4	01/04/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
3	12/30/2004	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
2	12/17/2004	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	12/17/2004	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

Back to OASIS | Home page

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Wyeth LLC/Latimer & Mayberry IP Law, LLP
13873 Park Center Road
Suite 106
Herndon, VA 20171

Mail Date: 04/20/2010

Applicant	: Kenneth Jacobs	: DECISION ON REQUEST FOR
Patent Number	: 7585646	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/013,920	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **481** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Lee & Morse, P.C.
3141 Fairview Park Drive
Suite 500
Falls Church, VA 22042

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APR 0 6 2009

OFFICE OF PETITIONS

In re Application of	:	
Jung-hyun Lee et al.	:	
Application No. 11/013,923	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO WITHDRAW
Attorney Docket No. 249/528	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 13, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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

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Townsend and Townsend and Crew, LLP
Two Embarcadero Center
Eighth Floor
San Francisco, CA 94111-3834

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JUN 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Byron Reynolds	:	
Application No. 11/013,937	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 018468-001800US	:	FROM RECORD
	:	

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 15, 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 Mark D. Barrish and all attorneys/agents of record has been revoked by the assignee of the patent application on March 24, 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: Vidas, Arrett & Steinkraus, P.A.
Suite 400
6640 Shady Oak Road
Eden Prairie, MN 55344

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VIDAS, ARRETT & STEINKRAUS, P.A.
SUITE 400, 6640 SHADY OAK ROAD
EDEN PRAIRIE MN 55344

MAILED

MAR 26 2010

OFFICE OF PETITIONS

In re Patent No. 7,604,631	: DECISION ON REQUEST
Reynolds	: FOR
Issue Date: October 20, 2009	: RECONSIDERATION OF
Application No. 11/013,937	: PATENT TERM ADJUSTMENT
Filed: December 15, 2004	: and
Atty Docket No. S63.2-13197-US01	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the reconsideration petition filed on December 15, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-five (1285) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred eighty-five (1285) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred eighty-five (1285)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,604,631 B2

DATED : **October 20, 2009** **DRAFT**

INVENTOR(S) : Reynolds

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 698 days

Delete the phrase "by 698 days" and insert – by 1285 days--

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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	:	
Palmer, et al.	:	
Application No. 11/013,945	:	DECISION
Filed/Deposited: 17 December, 2004	:	
Attorney Docket No. 57941.000088	:	

This is a decision on the petition filed on 27 February, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of Examiner's objection in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Objection of the Examiner

Petitioner is directed to the Commentary at MPEP §608.01(a) for guidance as to the regulations at 37 C.F.R. §1.77, and for which Petitioner now seeks relief pursuant to 37 C.F.R. §1.181.

Rather than respond affirmatively to the instructions of the Examiner, Petitioner instead seeks to argue with the Examiner's requirements.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §608.01(a), as discussed below. Thus Petitioner has failed to satisfy the requirements for relief pursuant to 37 C.F.R. §1.181. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the regulatory requirements.

Further, Petitioner appears not to comply with the requirements of the regulation as to timeliness.

BACKGROUND

The record reflects as follows:

The Examiner H. Singh (over the signature of Supervisory Patent Examiner (SPE) Shwuang Liu) set forth certain objections in addition to the rejections set forth in the non-final Office action mailed on 15 April, 2008, and Petitioner failed to satisfactorily comply in his amendment filed on 15 July, 2008.

The Examiner H. Singh (over the signature of SPE Shwuang Liu) again set forth those same certain objections in addition to the rejections set forth in the final Office action mailed on 3 October, 2008, and Petitioner failed to satisfactorily comply in his after-final amendment filed on 3 December, 2008, which Petitioner–as one registered to practice before the Office—knew was not as of right and not a proper reply[1] if it did not *prima facie* place the application in condition for allowance.

An Advisory Action over the signature of SPE Shwuang Liu and mailed on 12 December, 2008, maintained those same certain objections in addition to the rejections set forth.

Petitioner filed a Notice of Appeal (with fee) on 31 December, 2008.

Petitioner filed the instant petition on 27 February, 2009.

Petitioner filed an Appeal Brief (with fee) on 2 March, 2009.

The substance of Petitioner's demand herein is that the Examiner's objection with regard to Petitioner's failure to include in the form of the specification and amendments thereto headings (*see*: 37 C.F.R. §1.77(c))[2] as to the application elements specified at 37 C.F.R. §1.77(b), to wit:

***

(b)The specification should include the following sections in order:

(1)Title of the invention, which may be accompanied by an introductory portion stating the name, citizenship, and residence of the applicant (unless included in the application data sheet).

(2)Cross-reference to related applications (unless included in the application data sheet).

(3)Statement regarding federally sponsored research or development.

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

[2] The regulations at 37 C.F.R. §1.77(c) provide:

***

(c)The text of the specification sections defined in paragraphs (b)(1) through (b)(12) of this section, if applicable, should be preceded by a section heading in uppercase and without underlining or bold type.

***

(4)The names of the parties to a joint research agreement.

(5)Reference to a "Sequence Listing," a table, or a computer program listing appendix submitted on a compact disc and an incorporation-by-reference of the material on the compact disc (see § 1.52(e)(5)). The total number of compact discs including duplicates and the files on each compact disc shall be specified.

(6)Background of the invention.

(7)Brief summary of the invention.

(8)Brief description of the several views of the drawing.

(9)Detailed description of the invention.

(10)A claim or claims.

(11)Abstract of the disclosure.

(12)"Sequence Listing," if on paper (see §§ 1.821through 1.825).

***

Petitioner's entire argument consists of a contention that the regulatory provisions, which specify the headings missing from Petitioner's specification and amendments thereto are not mandatory.

It is noted that the Examiner's requirement for the headings have been signed by the Supervisory Patent Examiner (SPE) of the Art Unit. Moreover, the headings in question are set forth not only in the regulation but also in the discussion thereof at the Commentary at MPEP §608.01(a), and are consistent with, *inter alia*, the requirements of the Office for standard component elements of all application (and so to ease somewhat the process of review of materials by all of the Examiners in the Office), and to support the technical requirements for data capture in advance of publication as appropriate.

Thus, it is clear that the Examiner's requirement is neither one made by a single Examiner, nor a one for which Petitioner has been singled out for compliance, nor one mandated out of a fit of pique on the part of the Examiner. Rather, the Examiner's requirement is of a form and substance to be implemented across the Office for all applications and in a systematic manner. (See: MPEP §608.01, et seq.)

Moreover, it is noted that the Examiner's requirement was set forth in the final Office action mailed on 3 October, 2008, and again in the Advisory Action of 12 December, 2008.

The instant petition was not filed until 27 February, 2009.

Thus, the instant petition was not timely filed.

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)), <u>and</u> those registered to practice <u>and</u> 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.[3]

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.

APPLICABLE LAW

The regulations at 37 C.F.R. §1.181 provide:

> **§ 1.181 Petition to the Director.**
> (a) Petition may be taken to the Director:
> (1) From any action or requirement of any examiner in the *ex parte* prosecution of an application, or in *ex parte* or *inter partes* prosecution of a reexamination proceeding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court;
> (2) In cases in which a statute or the rules specify that the matter is to be determined directly by or reviewed by the Director; and
> (3) To invoke the supervisory authority of the Director in appropriate circumstances. For petitions involving action of the Board of Patent Appeals and Interferences, see § 41.3 of this title.
> (b) Any such petition must contain a statement of the facts involved and the point or points to be reviewed and the action requested. Briefs or memoranda, if any, in support thereof should accompany or be embodied in the petition; and where facts are to be proven, the proof in the form of affidavits or declarations (and exhibits, if any) must accompany the petition.
> (c) When a petition is taken from an action or requirement of an examiner in the *ex parte* prosecution of an application, or in the *ex parte* or *inter partes* prosecution of a reexamination proceeding, it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner. The examiner may be directed by the Director to furnish a written statement, within a specified time, setting forth the reasons for his or her decision upon the matters averred in the petition, supplying a copy to the petitioner.
> (d) Where a fee is required for a petition to the Director the appropriate section of this part will so indicate. If any required fee does not accompany the petition, the petition will be dismissed.
> (e) Oral hearing will not be granted except when considered necessary by the Director.
> (f) The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely, except as otherwise provided. This two-month period is not extendable.
> (g) The Director may delegate to appropriate Patent and Trademark Office officials the determination of petitions.[4]

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[3] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Allegations as to the Request to
Withdraw the Objection of the Examiner

The guidance in the Commentary at MPEP §608.01(a) provides for Petitioner the applicable guidance in this matter. Petitioner appears to have ignored that guidance.

The regulations at 37 C.F.R. §1.181(f) set forth the timeliness requirements herein. Petitioner appears to have ignored that as well.

Petitioner appears not to have made the showing required, nor done so timely.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

The instant application is released to Technology Center/AU 2611 to await the Examiner's Answer or other mailing as the Examiner may deem appropriate.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[4] *See*: 24 FR 10332, Dec. 22, 1959; 34 FR 18857, Nov. 26, 1969; paras. (d) and (g), 47 FR 41278, Sept. 17, 1982, effective Oct. 1, 1982; para. (a), 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; para. (f) revised, 65 FR 54604, Sept. 8, 2000, effective Nov. 7, 2000; paras. (a) and (c) revised, 65 FR 76756, Dec. 7, 2000, effective Feb. 5, 2001; paras. (a), (a)(2)-(3), (c)-(e) & (g) revised, 68 FR 14332, Mar. 25, 2003, effective May 1, 2003; para. (a)(3) revised, 69 FR 49959, Aug. 12, 2004, effective Sept. 13, 2004.

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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HUNTON & WILLIAMS LLP/RAMBUS INC.
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 06/28/2010

Applicant	: Robert E. Palmer	: DECISION ON REQUEST FOR
Patent Number	: 7664166	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/013,945	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1398** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DOW AGROSCIENCES LLC
9330 ZIONSVILLE RD
INDIANAPOLIS IN 46268

In re Application of	:
Mahill et al.	:
Serial No.: 11/013,961	: PETITION DECISION
Filed: December 16, 2004	:
Attorney Docket No.: 63,463A	:

This is in response to the petition under 37 CFR § 1.59(b), filed October 18, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on March 7, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicants' petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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JAN 25 2006

OFFICE OF PETITIONS

In re Application of	:	
Dockery et al.	:	
Application No. 11/013,979	:	DECISION ON PETITION
Filed: 16 December, 2004	:	
Atty Docket No. AP35921	:	

This is a decision on the petition filed on 5 December, 2005, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 25 March, 2005, for failure to timely reply to the Notice to File Missing Parts of Nonprovisional Application mailed on 24 January, 2005, which set

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional 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)).

a two (2) month shortened period for reply. No extensions of time under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 6 October, 2005.

Petitioners have filed an executed declaration under 37 CFR 1.63 and the late-filing surcharge required by the Notice mailed on 24 January, 2005.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

This application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES CA 90045

In re Application of	:	
David A. Watson	:	
Application No. 11/013,984	:	ON APPLICATION FOR
Filed: December 15, 2004	:	PATENT TERM ADJUSTMENT
Attorney Docket No. WATSON-47069	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed February 19, 2010, which is being 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 at 962 days, not 451 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

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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OFFICE OF PETITIONS

In re Application of	:	
Opinder Kishan BHAN et al.	:	
Application No. 11/014,005	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. TH2817 (US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 15, 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.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 15, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 13, 2009. Accordingly, the date of abandonment of this application is June 16, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

The Office recognizes that the petitioner filed a Request for Continued Examination as a response to the outstanding Office action or notice; however the issue and publication fees must be paid as a condition for revival.

The request to apply the issue fee to the Notice may be satisfied by completing and returning the Issue Fee Transmittal Form PTOL-85b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee to the application identified above.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Opinder Kishan BHAN et al.	:	
Application No. 11/014,005	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. TH2817 (US)	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 07, 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 June 15, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed March 13, 2009. Accordingly, the date of abandonment of this application is June 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, a Request for Continued Examination (RCE) and fee of $810.00, and the submission required by 37 CFR 1.114, (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice of Allowance mailed March 13, 2009 is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Office of Data Management.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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WILMINGTON DE 19805

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In re Application of	:	
Minor. Et al.	:	
Application No. 11/014,006	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. FL1120USNA	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 24, 2008 for failure to timely pay the issue and publication fees, as required by the Notice of Allowance and Fee(s) Due, mailed January 23, 2008. The Notice set a three month statutory period of time for reply. Notice of Abandonment was mailed June 9, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply in the form of payment of the issue fee and the publication fee, (2) the required petition fee; and (3) a proper statement of unintentional delay.

There is no indication that petitioner has submitted a Part B-Fee(s) Transmittal form (PTOL-85), despite the fact that the form is referenced in the petition. Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Fee(s) Transmittal form should be completed and returned to the Office of Data Management within **ONE MONTH** from the mail date of this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to Office of Data Management for processing into a patent.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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PLEVY & HOWARD & DARCY P.C.
P.O. BOX 226
PHILADELPHIA PA 19034

In re Application of Kurtz et al. Application No. 11/014,007 Filed: December 16, 2004 Attorney Dkt. No.: Kulite-100	: : : : :	Decision on Petition

This is a decision on the petition under 37 CFR §1.137(b), filed October 26, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office Action of February 6, 2006. The final Office Action set a three (3) month shortened statutory period for reply. No extension of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on May 7, 2006. A Notice of Abandonment was mailed on August 23, 2006.

The requirements for the filing of a grantable petition under 37 CFR §1.137(b) have been met. This Petition is hereby **Granted**.

This application is being forwarded to Technology Center 2800 for review of the RCE.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Anthony D. Kurtz	:	
Application No. 11/014,007	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. Kulite-100	:	FROM RECORD
	:	

This is a decision on the Requests 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 reason set forth in the request, "files were reassigned to the below mentioned firm . . . ," 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.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

A non-final rejection was mailed on January 11, 2008. Failure to timely respond will result in the abandonment of this application.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272- 4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Anthony D. Kurtz
136 Saddle River Road
Saddle River, NJ 07450

cc: The Plevy Law Firm
10 Rutgers Place
Trenton, NJ 08618

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Fort Washington, PA 19034

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In re Application of	:	
Anthony D. Kurtz et al.	:	
Application No. 11/014,007	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. Kulite-100	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 29, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Edward J. Howard and all attorneys/agents of record, has been revoked by the assignee of the patent application on March 26, 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.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: The Plevy Law Firm
10 Rutgers Place
Trenton, NJ 08618

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/22/2010

Applicant	: Masafumi Mochizuki	: DECISION ON REQUEST FOR
Patent Number	: 7606006	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,025	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **391** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FROM DIRECTORS OFFICE
APR 07 2006
TECHNOLOGY CENTER 3600

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GREENBERG TRAURIG, LLP
1900 UNIVERSITY AVENUE
FIFTH FLOOR
EAST PALO ALTO, CA 94303

In re application of Daric Wong et al: Application No. 11/014,073 Filed: December 15, 2004 For: METHOD AND APPARATUS TO ALLOCATE AND RECYCLE TELEPHONE NUMBERS IN A CALL-TRACKING SYSTEM	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on March 30, 2006 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
571-272-6611

SNM/dew: 04/05/06

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WENDEROTH, LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON DC 20006-1021

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OFFICE OF PETITIONS

In re Application of	:	
Teruhisa Sahashi et al	:	
Application No. 11/014,085	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 2004_2005	:	

This is a decision on the petition, filed December 21, 2003, 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 26, 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 2873 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

---

[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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MAR 28 2005

OFFICE OF THE DIRECTOR
TC 3600

FOLEY and LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of:
Erick B. Knezek et al
Serial No. 11/014,088
Filed: December 17, 2004
For: PONTOON FOR PRTECTION BARRIER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the renewed petition filed on December 17, 2004 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the invention is directed to countering terrorism by providing a protection barrier system against waterborne terrorist acts due to high speed boats or other types of watercraft attempting to penetrate a particular region in a body of water or abutting a body of water. This statement is a general conclusion and does not satisfy the requirement of explaining specifically how the invention contributes to countering terrorism. The petition must stand on its own explaining how and in what manner the invention provides for the prevention of terrorism.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Should petitioner desire reconsideration, he should supplement this petition by a declaration or statement giving the information as outlined above. Applicant should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

For the above stated reasons, the petition is **DISMISSED**.

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(703) 308-3868

SNM/jwk: 3/22/05

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MAY 25 2005

FOLEY and LARDNER
Suite 500
3000 K Street NW
Washington, DC 20007

In re Application of:
Erick B. Knezek et al
Serial No. 11/014,088
Filed: December 17, 2004
For: PONTOON FOR PRTECTION BARRIER SYSTEM

DECISION ON PETITION TO MAKE SPECIAL (COUNTER TERRORISM)

This is in response to the renewed petition filed on April 5, 2005 to make the above-identified application special on the basis of inventions for countering terrorism as set forth in MPEP § 708.02 XI. The delay in deciding this petition is regretted.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); and (B) a statement explaining how the invention contributes to countering terrorism.

Applicant's petition explains that the invention is directed to countering terrorism by providing a protection barrier system against waterborne terrorist acts due to high speed boats or other types of watercraft attempting to penetrate a particular region in a body of water or abutting a body of water.

Since all of the requirements for special status under MPEP § 708.02 XI have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/jwk: 4/9/05

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Jackson & Co., LLP
6114 La Salle Avenue
#507
Oakland, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of	:	
Taminder S. Chahal	:	
Application No. 11/014,099	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. TC-04-02	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 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 Seong-Kun Oh and all attorneys/agents of record has been revoked by the assignee of the patent application on June 1, 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: 3COM Corporation
350 Campus Drive
Malborough, MA 01752-3064

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6114 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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OFFICE OF PETITIONS

In re Application of	:	
Andrew Davy et al.	:	
Application No. 11/014,100	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. TC-04-04	:	FROM RECORD
	:	

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 19, 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 Seong-Kun Oh and all attorneys/agents of record has been revoked by the assignee of the patent application on June 1, 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: 3COM Corporation
350 Campus Drive
Marlborough, MA 01752-3064

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CEDAR RAPIDS, IA 52498

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OFFICE OF PETITIONS

In re Application of	:	
MCCUSKER, et al.	:	
Application No. 11/014,118	:	DECISION ON PETITION
Filed: December 15, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **04CR173/KE**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 5, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 9, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 June 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of 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.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 3661 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted June 11, 2007.

Brian W. Brown
Petitions Examiner
Office of Petitions

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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 7,363,941
Issued: April 29, 2008
Application No. 11/014,124
Filed: December 16, 2004
Atty. Dkt. No.: 15826-215001

: DECISION REGARDING PTA AND
: CERTIFICATE OF CORRECTION

This decision is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed June 6, 2008. The Office thanks patentee for his good faith and candor in bringing this to our attention.

The above-identified application matured into U.S. Patent No. 7,363,941 on April 29, 2008. The patent issued with a patent term adjustment (PTA) of 275 days. Patentee indicates that this adjustment appears longer than appropriate and direct the Office's attention to the information disclosure statement (IDS) filed November 12, 2007.

The calculation of adjustment has been reviewed and found to contain error. The correct adjustment at the time of issuance is 265 days.

As previously determined, the application is entitled to an adjustment of 291 days in accordance with 37 CFR 1.702(a). The adjustment was properly reduced 16 days in accordance with 37 CFR 1.704(b) in connection with the response filed November 2, 2007.

As indicated by patentee, the Office neglected to assess a reduction of 10 days in connection with the IDS submitted November 12, 2007. In accordance with 37 CFR 1.704(c)(8), the reduction commenced November 3, 2007, the day after the date that the initial response was submitted, and ended November 12, 2007, the date that the supplemental response (IDS) was filed.

Accordingly, at the time of issuance, the patent was entitled to an adjustment of 265 days (adjustment totaling 291 days less reduction of 26 days).

No additional fee has been assessed in connection with this matter.

Any request for reconsideration of this matter must be submitted within THIRTY DAYS. Extensions of time under 37 CFR 1.136 are not permitted.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 265 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney

CC: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT	:	7,363,941 B2
DATED	:	April 29, 2008
INVENTOR(S)	:	Caprera

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 275 days

Delete the phrase "by 275 days" and insert – by 265 days--

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 16:56:07

PTA Calculations for Application: 11/014124			
Application Filing Date:	12/16/2004	PTO Delay (PTO):	291
Issue Date of Patent:	04/29/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	16
Post-Issue Petitions:	0	Total PTA (days):	265
PTO Delay Adjustment:	-10		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
70	06/18/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		10	
66	04/29/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
65	03/20/2008	EXPORT TO FINAL DATA CAPTURE			
64	03/19/2008	DISPATCH TO FDC			
63	03/19/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
62	03/19/2008	TC RETURN TO PUBS			
61	03/12/2008	ISSUE FEE PAYMENT VERIFIED			
60	03/12/2008	ISSUE FEE PAYMENT RECEIVED			
59	01/14/2008	EXPORT TO INITIAL DATA CAPTURE			
56	01/10/2008	MAIL NOTICE OF ALLOWANCE			
55	01/10/2008	MAIL EXAMINER'S AMENDMENT			
54	01/09/2008	ISSUE REVISION COMPLETED			
53	01/09/2008	EXAMINER'S AMENDMENT COMMUNICATION			
52	01/07/2008	DOCUMENT VERIFICATION			
51	01/07/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	01/07/2008	NOTICE OF ALLOWABILITY			
49	11/12/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
48	11/12/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
47	11/17/2007	DATE FORWARDED TO EXAMINER			
46	11/02/2007	RESPONSE AFTER NON-FINAL ACTION		16	44
45	11/02/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	07/17/2007	MAIL NON-FINAL REJECTION			

43	07/09/2007	NON-FINAL REJECTION			
42	05/23/2007	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
41	05/23/2007	REFERENCE CAPTURE ON IDS			
40	05/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
39	07/03/2007	DATE FORWARDED TO EXAMINER			
38	05/23/2007	REQUEST FOR CONTINUED EXAMINATION (RCE)			
37	07/03/2007	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
36	05/21/2007	FINISHED INITIAL DATA CAPTURE			
35	05/23/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
34	05/23/2007	WORKFLOW - REQUEST FOR RCE - BEGIN			
33	04/27/2007	EXPORT TO INITIAL DATA CAPTURE			
32	04/23/2007	MAIL NOTICE OF ALLOWANCE			
31	03/29/2007	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
30	03/28/2007	DOCUMENT VERIFICATION			
29	03/29/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	03/28/2007	NOTICE OF ALLOWABILITY			
27	03/01/2007	NEW OR ADDITIONAL DRAWING FILED			
26	03/16/2007	DATE FORWARDED TO EXAMINER			
25	03/01/2007	RESPONSE AFTER NON-FINAL ACTION			
24	12/04/2006	MAIL NON-FINAL REJECTION	291		-1
23	11/27/2006	NON-FINAL REJECTION			
22	01/20/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
21	02/13/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	07/31/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	07/31/2006	REFERENCE CAPTURE ON IDS			
18.7	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
18	07/31/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
17.7	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			

17	02/13/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	01/20/2006	REFERENCE CAPTURE ON IDS			
15.7	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
15	01/20/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	05/31/2005	PRELIMINARY AMENDMENT			
12	06/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	06/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	05/31/2005	PRELIMINARY AMENDMENT			
9	04/18/2005	REFERENCE CAPTURE ON IDS			
8.7	04/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	04/18/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
7	02/02/2005	APPLICATION RETURN FROM OIPE			
6	02/02/2005	APPLICATION RETURN TO OIPE			
5	02/02/2005	APPLICATION DISPATCHED FROM OIPE			
4	02/03/2005	APPLICATION IS NOW COMPLETE			
3	01/21/2005	CLEARED BY OIPE CSR			
2	12/30/2004	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	12/16/2004	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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MAR 2 4 2005

OFFICE OF PETITIONS

In re Application of Wallin et al. Application No. 11/014,145 Filed: December 15, 2004 Attorney Docket No. PARCR-67939 Title: APPARATUS AND METHOD FOR MOUNTING A CARDIAC HARNESS ON THE HEART	DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition filed March 1, 2005, under 37 CFR. §1.47(a).

The petition under 37 CFR. §1.47(a) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR. §1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR. §1.136(a).

The above-identified application was filed on December 15, 2004, without an executed oath or declaration. Accordingly, on January 31, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring for the purposes of this decision an executed oath or declaration in compliance with §1.63, and a surcharge for its late filing. This Notice set an extendable two-month period for reply of March 31, 2005.

In reply, applicant filed a petition, the surcharge for late filing of the declaration, declarations from Doug Peterson, Lillip Lau and Mirza.

A grantable petition under 37 CFR. §1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116; (3) the

petition fee; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to item (1),Before a refusal can be alleged, applicant must demonstrate a bona fide attempt was made to present a copy of application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor. See MPEP 409.03(d). Where an inventor cannot be located/reached as in the case of inventor Palma, rule 47 applicant must demonstrate diligent effort was made to find or reach the non-signing inventors. See MPEP 409.03(d). The statements made in the petition and statements made in the declarations do not illustrate "diligent effort" was made to locate the non-signing inventor. 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. Petitioner should present a signed statement of facts from a person that has first hand knowledge of the diligent efforts made to locate the non-signing inventors. If inventor Palma's address is located a copy of the application papers (specification, including claims, drawings, and oath or declaration) should be mailed to the inventor's mailing address.

As to item (2), the declaration submitted is not in compliance with 37 CFR 1.63 . Rule 47 applicant failed to provide the citizenship and mailing addresses of all of the inventors pursuant to 37 CFR 1.63 (a)(3)and (c)(1). Specifically, petitioner failed to provide the address and citizenship of inventor Palma. On renewed petition, a newly executed declaration is required. Further, if inventor Palma is located and she refuses to execute the application papers, rule 47 applicant will need to provide the mailing address in the newly executed declaration or in an application data sheet pursuant to 37 CFR 1.76.

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 delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window, Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Joshua Wallin and Christine Palma	:	DECISION GRANTING STATUS
Application No.11/014,145	:	UNDER 37 CFR 1.47(a)
Filed: December 15, 2004	:	
Attorney Docket Number: PARCR-67939	:	
Title of Invention: Apparatus and Method for	:	
Mounting a Cardiac Harness	:	
	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 27, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Palma can not be reached or located and diligent effort has been used to locate the inventor. The efforts outlined by petitioner demonstrate diligent effort was used to attempt to locate non-signing inventor.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Christine Palma
1063 Morse Avenue, Apt. # 15-301
Sunnyvale, CA 94089

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OFFICE OF PETITIONS

In re Application of
Joshua Wallin and Christine Palma
Application No.11/014,145
Filed: December 15, 2004
Attorney Docket Number: PARCR-67939
Title of Invention: Apparatus and Method for Mounting a Cardiac Harness

: LETTER

Dear Ms. Palma:

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

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ATTN: DOUGLAS R. PETERSON

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OFFICE OF PETITIONS

In re Application of
Aboubakar, Maksimenko, Chaumont, and Polard
Application No. 11/014,156
Filed: October 23, 2003
Attorney Docket No. BMA-04-1323
For: Vectorization System Comprising Nanoparticles of Homogenous Size of at least One Polymer and at least One Positively Charged Polysaccharide and Method for the Preparation Thereof

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed August 5, 2005 (certificate of mailing dated August 2, 2005).

The petition under 37 CFR 1.47(a) is **dismissed.**

Any request for reconsideration under this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Failure to respond will result in the abandonment of this application. Any response should be titled "Request for Reconsideration of Petition Under 37 CFR 1.47(a).

The above-identified application was filed on December 16, 2004, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on February 3, 2005, requiring an executed oath or declaration, and a surcharge for the late filing of the oath or declaration, and replacement drawings. Extensions of time where available pursuant to 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks item (1) as set forth above.

As to item (1), petitioner has not established that the non-signing inventor cannot be reached. Petitioner has only indicated that a copy of the application papers and declaration was sent to the last known address of the non-signing inventor. There is no indication that the papers were received. If petitioner is arguing that the non-signing inventor is unavailable to join the prosecution of the application, section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) explains that:

> [w]here inability to find or reach a non-signing inventor "after diligent effort" is the reason for filing under 37 CFR 1.47, a statement of facts should be submitted that fully describes the exact facts, which are relied on to establish that a diligent effort was made.

It cannot be concluded that petitioner made a 'diligent' effort to locate the non-signing inventor given the evidence presented. It is only clear that the application papers were sent to the last known address of the non-signing inventor; this, without more, does not amount to diligence in locating the non-signing inventor. Section 409.03(d) further explains that the aforementioned statement " . . . 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 non-signing inventor could not be found or reached should be made part of the statement." In this case, petitioner should, at least, provide some evidence that the non-signing inventor has received the application papers, i.e., a certified mail return receipt, or that other efforts were made to locate the non-signing inventor to no avail.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 272-8300
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

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JAN 1 1 2006

OFFICE OF PETITIONS

In re Application of
Aboubakar, Maksimenko, Chaumont, and Polard
Application No.: 11/014,156
Filed: October 23, 2003
Attorney Docket No: BMA-04-1323
For: **Vectorization System Comprising Nanoparticles of Homogenous Size of at least One Polymer and at least One Positively Charged Polysaccharide and Method for the Preparation Thereof**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed December 27, 2005 (certificate of mailing dated December 22, 2 005.)

The renewed petition is **GRANTED**.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

The above-cited application was filed on December 16, 2004, without an executed oath or declaration. Accordingly, a "Notice to File Missing parts of Nonprovisional Application" (the "Notice") was mailed on February 3, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and replacement drawings A petition under 37 CFR 1.47(a) was filed on August 5, 2005. The petition was dismissed by a decision mailed August 22, 2005. The instant renewed petition was filed on December 27, 2005.

Petitioner has shown that inventor Aboubakar has refused to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application will be directed to the Office of Initial Patent Examination for further processing.

Telephone inquiries should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
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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OFFICE OF PETITIONS

Malam Aboubakar
1 rue de la Monnaie, 59000
Lille, France

In re Application of
Aboubakar, Maksimenko, Chaumont, and Polard
Application No.: 11/014,156
Filed: October 23, 2003
Attorney Docket No: BMA-04-1323
For: **Vectorization System Comprising Nanoparticles of Homogenous Size of at least One Polymer and at least One Positively Charged Polysaccharide and Method for the Preparation Thereof**

: DECISION ACCORDING
: RULE 47(a) STATUS

Dear Mr. Aboubakar:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a joint inventor, you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

IP GROUP OF DLA PIPER RUDNICK GRAY CARY US LLP
1650 MARKET ST
SUITE 4900
PHILADELPHIA, PA 19103

UNITED STATES PATENT AND TRADEMARK OFFICE

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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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OFFICE OF PETITIONS

In re Application of	:	
John K. Bielicki, et al.	:	
Application No.: 11/014,187	:	ON PETITION
Filed: December 15, 2004	:	
Attorney Docket No.: 014939-003110US	:	

This is a decision on the petition, filed November 20, 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 October 20, 2009, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1654 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Landon Stark Cantwell & Paxton Landon IP, Inc.
Suite 450
1700 Diagonal Road
Alexandria VA 22314

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In re Application of :
Danenberg :
Application No. 11/014,202 :
Filed: December 17, 2004 :
Attorney Docket No. AZ/US/0003 :
For: EDUCATIONAL BUILDING BLOCKS AND TWO GAMES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed February 11, 2006, 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 January 31, 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 1, 2005. A Notice of Abandonment was mailed on October 5, 2005.

Applicant has submitted a proper reply to the January 31, 2005 Notice in the form of the basic filing fee, search fee, examination fee, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the January 31, 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.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

McKENNA LONG & ALDRIDGE LLP
1900 K STREET, N.W.
WASHINGTON, DC 20006

In re Application of :
Kwak et al. : ON PETITION
Application No. 11/014,238 :
Filed: December 17, 2004 :
Attorney Docket No. 8733.123800 :

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDOMENT UNDER 37 CFR § 1.181(a)",[1] filed June 20, 2008, which is properly being treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of December 17, 2004.

On petition, applicants alleged that the original application papers were filed in the United States Patent and Trademark Office (USPTO) on December 17, 2004, and assigned Application No. 11/014,238. With the present petition, applicants submitted copies of the Utility Patent Transmittal (1 page), Specification (40 pages), Drawings (FIGS. 1-13; 13 sheets), Claim for Priority and Submission of Documents (1 page), and the date-stamped postcard receipt. The copy of the postcard receipt identified the application number as 11/014,238 with a USPTO date-stamp of December 17, 2004. The postcard acknowledged the receipt by the USPTO of a Utility Patent Transmittal (1 page), Specification (40 pages), Drawings (FIGS. 1-13; 13 sheets), Claim for Priority and Submission of Documents (1 page), Certified Copy of Korean Patent Application No. 10-2003-0092716 (38 pages), and Serial Card (1) on December 17, 2004.

[1] The Office notes that the application cannot be held abandoned as it was not accorded a filing date.

The original application papers submitted on December 17, 2004, have not been located. In view of the official record and the evidence presented,[2] the petition to accord the application papers a filing date of December 17, 2004, is **granted**.

Because the original application papers (specification, claims and drawings) cannot be located in the USPTO, the duplicate papers will be used for examination purposes.

This application is being referred to the Office of Patent Application Processing for further processing with a **filing date of December 17, 2004**, using the copy of the original application papers and for mailing a corrected filing receipt.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

[2] "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." MPEP 503.

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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 04/21/2010

Applicant	: Tejaskumar R. Patel	: DECISION ON REQUEST FOR
Patent Number	: 7596143	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,255	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1321** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
J. David Rozzell, Jr., et al	:	
Application No. 11/014,261	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 54052/JDC/B583	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 11, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before June 1, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 1, 2007. Accordingly, the date of abandonment of this application is June 2, 2007. A Notice of Abandonment was mailed on June 20, 2007, 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) 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. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1624 for appropriate action on the amendment under 37 CFR 1.312, filed June 11, 2007. Afterwards, the application should be referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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WELLS ST. JOHN P.S.
601 W. FIRST AVENUE, SUITE 1300
SPOKANE, WA 99201

Mail Date: 04/21/2010

Applicant	: James D. Weber	: DECISION ON REQUEST FOR
Patent Number	: 7607264	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,263	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1349** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant	: Jeremy Vander Woude	: DECISION ON REQUEST FOR
Patent Number	: 7623568	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/014,270	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1287** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CST

6-14-07

In re application of Andreas A. Melas Serial No. 11/014,304 Filed: December 16, 2004 For: METHODS TO REDUCE CRYSTAL DEFECTS PARTICULARLY IN GROUP III-NITRIDE LAYERS AND SUBSTRATES	DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed on May 5, 2007 to make the above-identified application special due to commercial interest.

The petition to make the application special is **DENIED.**

REGULATION AND PRACTICE

Pursuant to the "Changes 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), all petitions to make special, except those based on applicant's health or age or the PPH pilot, filed on or after August 25, 2006 are required to comply with the requirements of petitions to make special under the accelerated examination program. See also MPEP § 708.02(a). Note that any petition to make special under MPEP § 708.02, based solely on reasons other than health, age or the PPH pilot was required to be filed prior to August 25, 2006.

To be eligible for accelerated examination under 37 C.F.R. § 1.102(d) and pursuant to the "Changes to Practice for Petitions in Patent Applications to Make Special and for Accelerated Examination" published in the Federal Register on June 26, 2006 (71 Fed. Reg. 36323), the following conditions must be satisfied:

1. The application must be a non-reissue utility or design application filed under 37 CFR 1.111(a) **on or after August 25, 2006**;
2. The application, the petition and the required fees must be filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; if not filed electronically, a statement asserting that EFS and EFS-web were not available during the normal business hours;
3. The application, at the time of filing, must be complete under 37 CFR 1.51 and in condition for examination;

4. The application must contain three or fewer independent claims and twenty or fewer total claims and the claims must be directed to a single invention.

The application as filed is not eligible for accelerated examination under 37 C.F.R. § 1.102(d) because it was filed prior to August 25, 2006; it was not filed electronically using the USPTO's electronic filing system (EFS), or EFS-web; and it was not complete at the time of filing (see the Notice to File Corrected Application Papers mailed February 11, 2005).

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. It is noted that a non-final office action was mailed on March 19, 2007.

Any inquiry regarding this decision should be directed to Christine Tierney, Quality Assurance Specialist, at (571) 272-1055.

Christine Tierney

Christine Tierney
Quality Assurance Specialist
Technology Center 1700

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CONNOLLY BOVE LODGE & HUTZ, LLP
P O BOX 2207
WILMINGTON, DE 19899

Mail Date: 04/21/2010

Applicant	: Chu-Biao Xue	: DECISION ON REQUEST FOR
Patent Number	: 7576089	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,322	: OF WYETH
Filed	: 12/16/2004	:
		:

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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TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Alan Huang et al	:	
Application No. 11/014,344	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 018781-005520US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 4, 2005.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William B. Kezer on behalf of all attorneys of record who are associated with customer No. 20350.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

Dean Potter for

Amelia Au
Petitions Examiner
Office of Petitions

cc: Jones Day LLP
2882 Sand Hill Road, Suite 240
Menio Park, CA 94025

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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HICKMAN PALERMO TRUONG & BECKER/ORACLE
2055 GATEWAY PLACE
SUITE 550
SAN JOSE, CA 95110-1083

Mail Date: 04/21/2010

Applicant	: Namit Jain	: DECISION ON REQUEST FOR
Patent Number	: 7627574	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,354	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **374** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : **5/15/2008**

TO SPE OF : ART UNIT **1600 (1625)**

SUBJECT : Request for Certificate of Correction on Patent No.: **7,335,687**

Attn: Binta Robinson

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and forward within **7** days to: **Scanning customer Support**

Send copy also via PTO mail to:
Certificates of Correction Branch – 2900 South Tower 9A39A
Palm location **7580** - Tel. No. 308-8309

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.

***Ok to enter changes to claims as req. in COCIN?**

Ernest C. White, LIE - 308-9390x122
Certificates of Correction Branch

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

X **Approved**	**All** changes apply.
❑ **Approved in Part**	Specify below which changes **do not** apply.
❑ **Denied**	State the reasons for denial below.

Comments:

___/Janet L. Andres/_____ _____1625_____

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P.O. Box 1450
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DIW Apr-05

WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN CT 06508-1832

COPY MAILED

APR 25 2005

OFFICE OF PETITIONS

In re Application of	:	
Irshad Ahmed	:	
Application No. 11/014,379	:	ON PETITION
Filed: 16 December, 2004	:	
Atty Docket No. 102563-300	:	

This is a decision on the petition to accord a filing date, filed on 4 April, 2005, which is treated as a petition under 37 CFR 1.53(e) requesting that the above-identified application, including two (2) sheets of drawings, be accorded a filing date of 16 December, 2004.

The petition is granted.

On 16 December, 2004, the application was filed.

On 23 February, 2005, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that the application had been deposited without drawings, and that application should reconsider whether drawings were necessary under 35 U.S.C. § 113 (first sentence). The Notice stated that the filing date would be the date of receipt of the missing drawings.

In response, on 4 April, 2005, the present petition and a copy of two (2) sheets of drawings were filed. Petitioner argues that the two (2) drawing sheets were filed with the other application papers on 16 December, 2004, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioner's postcard receipt was supplied with the present petition. The postcard receipt shows an Office date stamp of 121604, the above-identified application number, and

identifies the application by the inventor's name, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, "Figures (2 Sheets)". Petitioner requests that the application, including two (2) sheets of drawings, be accorded a filing date of 16 December, 2004.

A review of the record reveals that one (1) sheet of drawings, containing Figure 1, received on 16 December, 2004, is located among the application papers received on that date. As such, the Notice of Incomplete Application was mailed in error. However, the evidence is convincing that the application papers deposited on 16 December, 2004, included two (2) sheet of drawings, which were subsequently misplaced in the Office. Therefore, the application, including two (2) sheets of drawings, is entitled to a filing date of 16 December, 2004.

In view of the above, the petition is granted to the extent indicated. The petition fee of $400.00 will be credited to counsel's deposit account, No. 23-1665.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 1 filed on 16 December, 2004, and one (1) sheet of drawings containing Figure 2 supplied on 4 April, 2005, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 16 December, 2004, using the application papers, including one (1) sheet of drawings, filed on that date, and the copy of one (1) sheet of drawings containing Figure 2 described in the specification supplied with the present petition, and for an indication in Office records that two (2) sheets of drawings were present on filing.

Telephone inquiries should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIW Jun-08

SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

COPY MAILED

JUN 16 2008

In re Application of	:	
Bhan et al.	:	DECISION ON PETITION
Application Number: 11/014380	:	TO WITHDRAW HOLDING OF
Filing Date: 12/16/2004	:	ABANDONMENT
Attorney Docket Number: TH2816	:	
(US)	:	

This is a decision on the petition, filed on March 11, 2008, to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed on August 10, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on February 22, 2008.

Petitioners assert that a proper response was in fact filed in the form of a timely amendment. In support of the petition, petitioners submitted a copy of a date-stamped post card receipt acknowledging receipt of a response under 37 CFR 1.111. The postcard has an "Office date" stamp of February 18, 2008, and identifies the application by application number, attorney docket number, and inventors' last names and invention title. A copy of the amendment, which bears a Certificate of Mailing dated February 11, 2008,[1] has also been supplied.

On review, petitioner's contention is well taken. A review of the file reveals that the response received on February 19, 2008, including an amendment in response under 37 CFR 1.111 to the Office action mailed on August 10, 2007. The amendment includes a Certificate of Mailing, dated February 11, 2008, signed by petitioner's registered patent practitioner, Richard B. Taylor.

The petition, signed by attorney Taylor, contains a statement attesting to the previous timely mailing of the papers filed on February 11, 2008. See 37 CFR 1.8.

[1] As February 10, 2008, fell on a Sunday, the papers filed on Monday, February 11, 2008, were timely filed. 37 CFR 1.6.

As such, the showing of record is that a proper and timely response to the non-final Office action mailed on August 10, 2007, was filed on February 19, 2008 (certificate of mailing date February 11, 2008).

According, there is no abandonment in fact.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The petition is **GRANTED**.

The application file will be referred to the Technology Center's technical support staff for entry of the response. Thereafter, the application file will be referred to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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NOV 2 5 2008

OFFICE OF PETITIONS

In re Application of
Robert A. Branch, et. al.
Application No. 11/014,388
Filed: December 16, 2004
Attorney Docket No. 042390.P19904

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Non-Final Rejection mailed, August 10, 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 November 14, 2007 (November 10, 2007 was a Saturday and November 12, 2007 was a holiday).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

The Revocation/Appointment of Power of Attorney or Authorization of Agent filed October 24, 2007 has been accepted and made of record. A Notice of Acceptance is enclosed with this decision.

On August 28, 2008 the Office received a Terminal Disclaimer with the petition. Since no terminal disclaimer is required for this application, the Office will credit petitioner's deposit account in the amount of $130 for the disclaimer.

A courtesy copy of the address will be mailed to the address on the petition.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 2192 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

cc: Paul A. Mendonsa
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1925 NW AmberGlen Pkwy, Ste. 230
Beaverton, OR 97006-6966

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/014,388	12/16/2004	Robert A. Branch	042390.P19904

CONFIRMATION NO. 1978

POA ACCEPTANCE LETTER

45209
INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

OC000000032851340

Date Mailed: 10/29/2008

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/24/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/dwilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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LAW OFFICES OF BORIS G. TANKHILEVICH
536 N. CIVIC DRIVE
SUITE A
WALNUT CREEK, CA 94596

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Kozhukh, et al.	:	
Application No. 11/014,408	:	DECISION ON PETITION
Filed: December 15, 2004	:	TO WITHDRAW
Attorney Docket No. KOZHUKH-2/TANK-242	:	FROM RECORD
	:	

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, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Boris Tankhilevich has been revoked by the assignee of the patent application on December 1, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: ADSEM, INC.
1036 COLORADO AVENUE
#2-O
PALO ALTO, CA 94303

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EDWARD J. LYNCH, PATENT ATTORNEY
ONE EMBARCADERO CENTER
SUITE 562
SAN FRANCISCO CA 94111

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OCT 01 2007

OFFICE OF PETITIONS

In re Application of	:
Shabaz et al.	:
Application No. 11/014,413	: Decision on Petition
Filing Date: December 16, 2004	:
Attorney Docket No. R0367-5300	:
For: BIOPSY DEVICE WITH APERTURE	:
ORIENTATION AND IMPROVED TIP	:

The above-identified application has been forwarded to the undersigned for consideration on a petition entitled "Petition to Withdraw Claim of Priority Under 37 CFR 1.182 and Request for Corrected Filing Receipt thereof," received on May 21, 11, 2007.

The petition under 37 CFR 1.182 is dismissed as moot.

Petitioner requests to withdraw all priority claims in the above identified application and additionally request a new corrected filing receipt.

The petition is dismissed because Applicant timely filed an amendment in compliance with 37 CFR 1.121. See MPEP 201.11(G).

Telephone inquiries with regard to this communication should be directed to Mark O. Polutta at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosures: 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
11/014,413	12/16/2004	3736	2590	R0367-05300	69	11

CONFIRMATION NO. 3879

CORRECTED FILING RECEIPT

OC000000026081057

61808
EDWARD J. LYNCH, PATENT ATTORNEY
ONE EMBARCADERO CENTER
SUITE 562
SAN FRANCISCO, CA 94111

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)

Martin V. Shabaz, Lake Forest, CA;
Richard L. Quick, Mission Viejo, CA;
Frank R. Louw, Carlsbad, CA;
Paul Lubock, Laguna Niguel, CA;
Jason H. Safabash, Aliso Viejo, CA;

Power of Attorney:

George Cooper--20201
Edward Lynch--24422
Lewis Gould Jr--25057
Douglas Hanscom--26600
Colin Barnitz--35061
Mark Marcelli--36593
Mark Comtois--46285
Alexander Raring--52502

Domestic Priority data as claimed by applicant

Foreign Applications

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 US11/014,413

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Biopsy device with aperture orientation and improved tip

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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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NOV 28 2008

OFFICE OF PETITIONS

JOHN M. HARRISON
2139 E. BERT KOUNS
SHREVEPORT LA 71105

In re Application of	:	
King	:	
Application No. 11/014,448	:	DECISION
Filed: 16 December, 2004	:	
Attorney Docket No. 9091D	:	

This is a decision on the petition, filed on 26 September, 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 **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)."

Petitioner's alternative is to file a complete and fully executed petition (with properly executed supporting statements) 37 C.F.R. §1.137(b), discussed below.

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

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.)

Petitioner does not appear to have satisfied the reply and showing requirements as to unavoidable delay. It is noted that Petitioner avers non-receipt, which is more appropriately submitted/considered under 37 C.F.R. §1.181. Thus, Petitioner's attentions

are directed to the Commentary at MPEP §711.03(c), generally, and MPEP §711.03(c)(I) in particular.

BACKGROUND

The record reflects as follows:

The Examiner mailed a non-final Office action on 1 October, 2007, and Petitioner replied (with a request and fee for extension of time (on 25 January, 2008.

The Office mailed a first Notice of Non-Compliant Amendment (copy enclosed) on 21 February, 2008, with reply due absent extension of time on or before 21 March, 2008.

Petitioner submitted a reply on 29 February, 2008.

The Office mailed a (second) Notice of Non-Compliant Amendment (copy enclosed)—this mailed on 7 April, 2008—and with the reply date to run from the original, with extensions of time available—to which Petitioner failed to reply timely and properly, and the application went abandoned after midnight 21 March, 2008

The Office mailed a Notice of Abandonment on 17 September, 2008.

On 26 September, 2008, Petitioner filed the instant petition with fee, but submitted no reply, and Petitioner made a statement of unavoidable delay he provided no support (including documentary support) for the statement as guided generally by the Commentary at MPEP §711.03(c). As indicated above, Petitioner may wish to seek relief under the provisions of 37 C.F.R. §1.181, and particularly guided by the Commentary at MPEP §711.03(c)(I).

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]

[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.

Thus, Petitioner has failed to support the allegation of unintentional delay.

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.[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.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Petitioner failed to make the showing of unavoidable delay and provide a reply to the Office action as required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **dismissed**.

ALTERNATIVE VENUE

Should Applicants/Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form

---

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] 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).

available online.) Petitioner should also refer to the Fee Schedule also online to determine the appropriate fees at the time of any given proposed transaction.

It also is noted that the statement of unintentional delay must be signed by the attorney under whose control the application went abandoned or by the authorized authority of the assignee—i.e., persons capable of making the statement of unintentional delay.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

While 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 Petitioners 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.

Failure to Acceptably Respond to Notice of Non-Compliant Amendment (37 CFR 1.121) *No New Time Period for Reply is Provided*	**Application No.** 11/014,448	**Applicant(s)** KING, BOBBY D.
		Art Unit 3998

The amendment document filed on 29 February, 2008 fails to provide the corrective action required by the **prior Notice of Non-Compliant Amendment (37 CFR 1.121)** mailed on 21 February, 2008. The amendment, including both the originally filed amendment and the amendment filed in response to the prior notice, is still considered to be non-compliant under 37 CFR 1.121. In order for the amendment document to be compliant, correction of the item(s) listed below is required. **Only the corrected section of the non-compliant amendment document must be resubmitted (in its entirety), e.g., the entire "Amendments to the claims" section of applicant's amendment document must be re-submitted.** 37 CFR 1.121(h).

The period for reply continues to run from the mailing date of the prior Notice of Non-Compliant Amendment. The corrections listed below must be timely filed to avoid abandonment of the application. No new time period for reply is provided in this communication. See the Manual of Patent Examining Procedure (MPEP) § 714.03.

If the period for reply set forth in the prior Notice of Non-Compliant Amendment has expired, this application will become abandoned unless applicant: (1) corrects the deficiency, **and** (2) obtains an extension of time under 37 CFR 1.136(a). In no case may an applicant reply outside the SIX (6) MONTH statutory period or obtain an extension for more than FIVE (5) MONTHS beyond the date for reply set forth in the prior Notice of Non-Compliant Amendment (37 CFR 1.121).

THE FOLLOWING CHECKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:

- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other

☐ 2. Abstract:

- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other

☐ 3. Amendments to the drawings:

☒ 4. Amendments to the claims:

- ☒ A. A complete listing of <u>all</u> of the claims is not present.
- ☒ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following 7 status identifiers: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New) and (Not entered).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☐ E. Other:

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf.

Supervisory Legal Instruments Examiner (SLIE) : /JULIET MCMILLAN/

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U.S. Patent and Trademark Office
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P.O. Box 1450
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www.uspto.gov

e 02/21/2008

John M. Harrison
2139 E. Bert Kouns
Shreveport, LA 71105

Paper No.

Application No.:	**11/014,448**	**Date Mailed:**	**02/21/2008**
First Named Inventor:	King, Bobby, D.	Examiner:	ARK, DARREN W
Attorney Docket No.:	9091D	Art Unit:	3643
Confirmation No.:	4609	Filing Date:	12/16/2004

Please find attached an Office communication concerning this application or proceeding.

Commissioner for Patents

PTO-90c (Rev.08-06)

Notice of Non-Compliant Amendment (37 CFR 1.121)	Application No. 11/014,448	Applicant(s) KING, BOBBY D.
		Art Unit 3700

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on *01/25/08* is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121 or 1.4. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

☐ 1. Amendments to the specification:
- ☐ A. Amended paragraph(s) do not include markings.
- ☐ B. New paragraph(s) should not be underlined.
- ☐ C. Other _____.

☐ 2. Abstract:
- ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
- ☐ B. Other _____.

☐ 3. Amendments to the drawings:
- ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
- ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
- ☐ C. Other _____.

☒ 4. Amendments to the claims:
- ☒ A. A complete listing of all of the claims is not present.
- ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
- ☐ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
- ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
- ☐ E. Other: _____.

☐ 5. Other (e.g., the amendment is unsigned or not signed in accordance with 37 CFR 1.4): For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance, or a drawing submission (only) If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted.

2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a Quayle action. If any of above boxes 1 to 4 are checked, the correction required is only the corrected section of the non-compliant amendment in compliance with 37 CFR 1.121.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

Legal Instruments Examiner (LIE), if applicable /Ruby Johnson/ Telephone No: (571)272-4359

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

GARLICK HARRISON & MARKISON LLP
P.O. BOX 160727
AUSTIN TX 78716-0727

In re Application of:	:	
Matthew A. Rybicki, et al.	:	DECISION ON PETITION TO
Application Serial No.: 11/014,451	:	WITHDRAW RESTRICTION
Filed: December 16, 2004	:	REQUIREMENT UNDER
For: AUDIO SYSTEM FOR A COMPUTER	:	37 CFR 1.144

This is a decision on the petition filed February 27, 2006, under 37 CFR § 1.144 requesting withdrawal of the restriction requirement initially issued by the examiner on August 8, 2005; traversed by applicants in a response filed September 12, 2005; and maintained by the examiner in an Office action dated October 4, 2005.

BACKGROUND

A restriction requirement was mailed on August 8, 2005 setting forth restriction between four species of invention.

A response to the restriction requirement was timely filed and received in the Patent and Trademark Office (PTO) on September 12, 2005 (including Certificate of Mailing dated September 8, 2005), wherein applicants elected to prosecute the claims of Species A with traverse. Applicants argued in the response that independent claims in Species A and Species C are drawn to a computer audio system that includes an audio codec and a tone controller, with each independent claim having different elements of the tone controller. Applicants further argued that independent claims of Species B and Species D are drawn to an audio codec. Applicant argued that Species A and C could be examined together without a serious burden on the examiner and that similarly the claims of Species B and D could be examined together without a serious burden on the examiner. Accordingly, applicant requested that the restriction requirement be withdrawn or modified.

A non-final Office action was mailed on October 4, 2005; wherein the examiner argued that claims drawn to figure 2 and claims drawn to figure 4 contain a tone controller with different filtering requirements. The examiner stated that applicant's arguments were not persuasive and made the restriction requirement Final.

Petitioner seeks relief by filing the instant petition under 37 CFR § 1.144 requesting that the restriction requirement be withdrawn or modified. A response to the outstanding non-final Office action was also filed with the February 27, 2006 petition.

OPINION

Petitioner contends that the proposed restriction requirements of August 8, 2005, repeated in the October 4, 2005 Office action failed to properly set forth distinctness as set forth in MPEP 803. Further, the petition sets forth reasons why the search and examination for claims 1-6 and 13 can be made without a serious burden; and why the search of claims 7-12 and 14 can be made without a serious burden.

A review of the record finds that applicant has persuasively argued that the search and examination of Species A and C together can be made without a serious burden; and that the search and examination of Species B and D together can be made without a serious burden. Accordingly, the Office action mailed October 4, 2005 is deemed defective inasmuch as the restriction requirement therein is overly restrictive.

CONCLUSION

For the above stated reasons, the petition to withdraw the restriction requirement is **GRANTED**.

The non-final Office action mailed October 4, 2005 is hereby VACATED.

The application file is being forwarded to the examiner for a new and appropriate action, including a revised restriction requirement, in due course.

Mark R. Powell

Mark Powell, Director
Technology Center 2600
Communications
(571) 272-3050

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

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MAR 2 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Michael K. SONG	:	
Application No. 11/014,454	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO WITHDRAW
Attorney Docket No. 365587-P0001	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 30, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Foley and Lardner LLP, has been revoked by the assignee of the patent application on January 8, 008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: DALE S. LAZAR
DLA PIPER US LLP
1775 WIEHLE AVENUE, SUITE 400
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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WESTMAN CHAMPLIN & KELLY PA
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS, MN 55402-3319

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OFFICE OF PETITIONS

In re Patent No. 7,156,190 :
Issue Date: January 2, 2007 :
Application No. 11/014,466 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. :
M297.12-0295

This is a decision on the petition filed March 16, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee's residence on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

The patent file is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

As authorized, the processing fee of $130 for the request under 37 CFR 3.81(b) will be charged to petitioner's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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WESTMAN CHAMPLIN (MICROSOFT CORPORATION)
900 SECOND AVENUE SOUTH, SUITE 1400
MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of
Aurl A. MENEZEA, et al
Application No. 11/014,503
Filed: December 16, 2004
Attorney Docket No. **M61.12-0813**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 3, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 30, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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 should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JOSEPH R. KELLY**
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

---

[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

SEAGATE TECHNOLOGY c/o MOFO SF
425 MARKET ST.
SAN FRANCISCO CA 94105

In re Application of

BARFOROSHI, Khalil H.
Application No. 11/014,526
Filed: December 15, 2004
Attorney Docket No. **146712011000**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 24, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Peter J. Yim on behalf of all attorneys of record who are associated.
All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 15, 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: **KHALIK H. BARFOROSHI**
1110 FOX HOLLOW COURT
MILPITAS, CA 95035

cc: **STEPHEN C. DURANT**
NOVAK DRUCE & QUIGG LLP
SPEAR STREET TOWER – 35TH FLOOR
ONE MARKET PLAZA
SANFRANCISCO, CA 94105

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SEAGATE TECHNOLOGY LLC
C/O NOVAK DRUCE & QUIGG LLP
1000 LOUISIANA, SUITE 5350
HOUSTON, TX 77002

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OFFICE OF PETITIONS

In re Application of
Khalil H. Barforoshi
Application No.: 11/014,526
Filed: December 15, 2004
Attorney Docket No.: 8209.060.NPUS00

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed October 25, 2007.

The application became abandoned for failure to pay the issue fee on or before October 24, 2007. On October 25, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on October 29, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,440 issue fee and the $300 publication fee; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

Accordingly, the petition is GRANTED.

It is noted that address given on the petition differs from the address of record. If appropriate, a change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JAMES REMENICK
1300 I STREET, N.W.
SUITE 1000 WEST TOWER
WASHINGTON, DC 20005

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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View, CA 94041

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OFFICE OF PETITIONS

In re Application of

Allen R. Samuels et al.
Application No. 11/014,532
Filed: December 15, 2004
Attorney Docket No. 23447-09518

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 18, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Robert A. Hulse on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Allen R. Samuels**
5971 Foligno Way
San Jose, CA 95138

cc: **Choate, Hall & Stewart**
Two International Place
Boston, MA 02110

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Attorney Docket No.: FL/139B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:
Durante et al.

Serial No.: 11/014,544

Filed December 15, 2004

For: Filter System

) Confirmation No.: 3969
) Group Art Unit: 1793
) Examiner: Martinez, B.

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office on the date shown below:

Darlene S. McGrath

Darlene S. McGrath

August 11, 2008

(date of mailing document)

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION FOR EXTENSION OF TIME
UNDER 37 C.F.R. § 1.136(a)

Dear Sir:

It is respectfully requested that an extension of time for three (3) months, to and including August 11, 2008 be granted in accordance with the provisions of 37 C.F.R. § 1.136(a) in order to extend the period for response to the outstanding rejection of February 11, 2008.

Please charge our Deposit Account No. 07-1729 for the required fee, and for any additional charges that may be incurred.

Respectfully submitted,

Carol A. Lewis White

Carol A. Lewis White, 33,306
Patent Attorney
W. L. Gore & Associates, Inc.
551 Paper Mill Road
P.O. Box 9206
Newark, DE 19714-9206
(302) 738-4880

Date: August 11, 2008

09/29/2008 CKHLUK 00000011 071729 11014544
01 FC:1253 1050.00 DA

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United States Patent and Trademark Office
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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Akshay Adhikari	: DECISION ON REQUEST FOR
Patent Number	: 7583667	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,546	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1293** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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United States Patent and Trademark Office
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LENOVO (US) IP Law
1009 Think Place
Building One, 4th Floor 4B6
Morrisville, NC 27560

Mail Date: 04/21/2010

Applicant	: Rhonda L. Childress	: DECISION ON REQUEST FOR
Patent Number	: 7586839	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,563	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1299** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

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In re Application of	:	
Thomas J. Boyd, et. al.	:	
Application No. 11/014,571	:	ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 2664P-001COA	:	

This is a decision on the petition under 37 CFR 1.137(b), filed September 24, 2008, to revive the above-identified application.

The application became abandoned for failure to respond to the Notice of Non-Complaint Amendment mailed February 22, 2008.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Donald l. Traut 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.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

As authorized, the petition fee of $1,540 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 1612 for further processing.

The Change of Correspondence Address filed October 20, 2008 has not been accepted. If Mr. Traut 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 the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Donald L. Traut
Colgate-Palmolive Company
909 River Road; P.O. Box 1343
Piscataway, NJ 08855-1343

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OFFICE OF PETITIONS

FLYNN THIEL BOUTELL & TANIS, P.C.
2026 RAMBLING ROAD
KALAMAZOO, MI 49008-1631

In re Patent No. 7,370,815 :
Issue Date: May 13, 2008 :
Application No. 11/014,577 : NOTICE
Filed: December 16, 2004 :
Attorney Docket No. 5000.P0051US

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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EMC CORPORATION
OFFICE OF THE GENERAL COUNSEL
176 SOUTH STREET
HOPKINTON, MA 01748

Mail Date: 04/21/2010

Applicant	: David Joshua Brown	: DECISION ON REQUEST FOR
Patent Number	: 7634595	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,597	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **531** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SCHLUMBERGER TECHNOLOGY CORPORATION
IP DEPT., WELL STIMULATION
110 SCHLUMBERGER DRIVE, MD1
SUGAR LAND TX 77478

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MAR 16 2007

OFFICE OF PETITIONS

In re Application of	:	
Rod W. Shampine et al	:	
Application No. 11/014,598	:	ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. 56.0772	:	

This is a decision on the petition, filed March 15, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 13, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 3672 will consider the request for continued examination under 37 CFR 1.114.

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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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

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In re Application of :
Rothman, et al. :
Application No. 11/014,605 : ON PETITION
Filed: December 16, 2004 :
Attorney Docket No. 42P20489 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 2, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to respond to the final Office action mailed April 3, 2007, which set an extendable three month period for reply. No extensions of time under 37 CFR 1.136(a) being obtained, and no reply being filed in the Office, the application became abandoned on July 4, 2007. A Notice of Abandonment was mailed on October 13, 2007.

Applicants have submitted a RCE and amendment as the submission in reply to the April 3, 2007 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 3, 2007 final Office action, and the 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) 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, practitioner 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, practitioner 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.

After the mailing of this decision the application will be forwarded to Technology Center AU 2617 for consideration of the RCE and amendment filed on December 2, 2008.

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

CC: PAUL A. MENDONSA
1925 NW AMBERGLEN PARKWAY, SUITE 230
BEAVERTON OR 7006-6966

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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 06/01/2010

Applicant	: William J. Frasier	: DECISION ON REQUEST FOR
Patent Number	: 7625339	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/014,615	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/15/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **738** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DUGAN & DUGAN, P.C.
55 SOUTH BROADWAY
TARRYTOWN NY 10591

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OFFICE OF PETITIONS

In re Application of	:	
John Michael Sherer	:	
Application No. 11/014,643	:	DECISION GRANTING PETITION
Filed: December 16, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 9991/D01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed February 15, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection of March 24, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1724.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

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OFFICE OF PETITIONS

In re Application of	:
Michael Musgrave et al	: DECISION ON PETITION
Application No. 11/014,672	: UNDER 37 CFR 1.78(a)(3)
Filed: December 16, 2004	:
Attorney Docket No. APIP-1140CP(COS-767CP)	:

This is a decision on the petition under 37 CFR 1.17(t), filed May 13, 2005, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the prior-filed nonprovisional Application No. 10/635,788.

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 Commissioner may require additional information where there is a question whether the delay was unintentional.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence

on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject 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.

Additionally, the amendment improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition under 37 CFR 1.78(a)(3) and a substitute amendment to correct the above matters is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building

401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

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.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

Frances Hicks
Lead Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: MADAN MOSSMAN & SRIRAM, P.C.
2603 AUGUSTA, SUITE 700
HOUSTON, TX 77057

UNITED STATES PATENT AND TRADEMARK OFFICE

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FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

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OFFICE OF PETITIONS

In re Application of :
Michael Musgrave et al :
Application No. 11/014,672 : DECISION ON PETITION
Filed: December 16, 2004 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. APIP-1140CP(COS-767CP) :

This is a decision on the petition under 37 CFR 1.7(t), filed October 7, 2005, which is being treated as a renewed petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 10/635,788, filed August 6, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the above-noted, prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the above-noted, prior-filed application. In order for the instant application to be entitled to the benefit of the above-noted, prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the above-noted, prior-filed application should not be construed as meaning that applicants are entitled to the claim for benefit of priority to the above-noted, prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 1774 for appropriate action on the amendment filed October 7, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/014,672	12/16/2004	1774	1130	COS-767 CIP		20	3

CONFIRMATION NO. 1441

CORRECTED FILING RECEIPT

OC000000018025681

25264
FINA TECHNOLOGY INC
PO BOX 674412
HOUSTON, TX 77267-4412

Date Mailed: 02/09/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Michael Musgrave, Houston, TX;
Mohan R. Gownder, Austin, TX;
Jay Nguyen, Pasadena, TX;

Assignment For Published Patent Application

Fina Technology, Inc., Houston, TX

Power of Attorney:

William Jackson--20846
David Mossman--29570
David Alexander--33221
Gene Tyler--35395
Shirley Kopecky--48460
Tenley Krueger--51253

Domestic Priority data as claimed by applicant

This application is a CIP of 10/731,729 12/09/2003 PAT 6,864,331
and is a CIP of 10/635,788 08/06/2003 PAT 6,846,561

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 US11/014,672

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Bicomponent fibers of syndiotactic polypropylene

Preliminary Class

428

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

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OFFICE OF PETITIONS

In re Application of	:	
Masaki Mizuno	:	
Application No. 11/014,678	:	DECISION GRANTING PETITION
Filed: 17 June, 2004	:	
Attorney Docket No. 03560.003467.	:	

This is a decision on the petition filed on 17 December, 2004, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 17 June, 2004.

The petition is granted.

Petitioner asserts that the above-identified application was filed on 17 June, 2004, but was subsequently lost in the U.S. Patent and Trademark Office. In support, petitioner presents a itemized postcard bearing a USPTO "Office-date" stamp dated 17 June, 2004. The postcard identifies the application by attorney docket number and itemizes the filing of 33 pages of specification, claims, and abstract and four (4) sheets of drawings as well as an executed declaration. The petition was also accompanied by, *inter alia*, 33 pages of specification, including claims and one (1) page of abstract, and four (4) sheets of drawings. Petitioner requests that the application be accorded a filing date of 17 June, 2004: the date that the specification, including the claims, and drawings were filed in the USPTO.

Upon a review of the record, no pages of specification or claims or sheets of drawings received on 17 June, 2004, have been located in the Office.

However, the evidence is convincing, based on petitioners itemized, stamped postcard receipt that the application papers deposited on 17 June, 2004, included, *inter alia*, 33 pages of specification, claims, and abstract, and four (4) sheets of drawings. Therefore, the application as filed is entitled to a filing date of 17 June, 2004.

In future filings, applicant may wish to consider including additional identifying information, such as the applicant's name and invention title, on the itemized postcard receipt. The postcard receipt must contain sufficient identifying information to link it to the application papers in order to serve as evidence of the date of receipt of the papers itemized thereon.

As the petition was due to an error on the part of the USPTO, no petition fee will be charged.

The application filing date will be corrected to 17 June, 2004.

The application file is being referred to the Office of Initial Patent Examination for correction of the filing date to 17 June, 2004.

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

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/014,678	06/17/2004	Masaki Mizuno	03560.003467

5514
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112

Date Mailed: 06-28-2005

NOTICE OF CORRECTED APPLICATION NUMBER

Through an administrative error, the above identified application number was assigned to your application. The correct application number is **11/014,678**. Please refer to the new application number in all future correspondence to the Office.

All notices mailed in application **10/868,862** have been vacated.

The Office regrets any inconvenience this has caused. Please direct any questions or inquiries to Customer Service at (703) 308-1202.

Office of Initial Patent Examination
(703) 308-1202

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NEW YORK NY 10112

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MAR 0 7 2005

OFFICE OF PETITIONS

In re Application of	:
Masaki Mizuno	:
Application No. 11/014,678	: DECISION GRANTING PETITION
Filed: 17 June, 2004	:
Attorney Docket No. 03560.003467.	:

This is a decision on the petition filed on 17 December, 2004, which is treated as a petition under 37 CFR 1.53(e) to accord the above-identified application a filing date of 17 June, 2004.

The petition is granted.

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Upon a review of the record, no pages of specification or claims or sheets of drawings received on 17 June, 2004, have been located in the Office.

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In future filings, applicant may wish to consider including additional identifying information, such as the applicant's name and invention title, on the itemized postcard receipt. The postcard receipt must contain sufficient identifying information to link it to the application papers in order to serve as evidence of the date of receipt of the papers itemized thereon.

As the petition was due to an error on the part of the USPTO, no petition fee will be charged.

The application filing date will be corrected to 17 June, 2004.

The application file is being referred to the Office of Initial Patent Examination for correction of the filing date to 17 June, 2004.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

In re Application of:	:	
UNDERBRINK, Paul, et al.	:	DECISION ON PETITION
U.S. Application No.: 11/014,684	:	UNDER 37 CFR 1.78(a)(3) AND
Filing Date: December 16, 2004	:	37 CFR (a)(6)
Atty Docket No.: ST04003USU (267-US-U1)	:	
For: EDGE-ALIGNED RATIO COUNTER	:	

This is a decision on the "Petition Under 37 CFR 1.78(a)" filed April 30, 2008, treated herein as a petition under 37 CFR 1.78(a)(3) and (a)(6). The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the two prior-filed international applications and the three prior-filed U.S. provisional applications identified in the concurrently filed amendment. Applicants have paid the required petition fee.

The petition is **DISMISSED** without prejudice.

37 CFR 1.78(a)(3) applies where an applicant seeks to add a late claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States; 37 CFR 1.78(a)(6) applies where an applicant seeks to add a late claim of priority to a prior-filed provisional application. Applicant here is seeking to add priority claims to two international applications (PCT/US2004/028542 and PCT/US2004/028926) and three provisional applications (60/499,961, 60/546,816, and 60/547,385). Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (a)(6).

The present petition cannot be granted because the amendment submitted includes a benefit claim to an inappropriate application. Specifically, the claim of benefit directed to U.S. provisional application 60/547,385 is improper because such application does not have an inventor in common with the present application, as required for a proper benefit claim under 35 U.S.C. 119(e).[1]

Before the petition can be granted, a substitute amendment[2] is required, along with a renewed petition under 37 CFR 1.78(a)(3) and (a)(6). The substitute amendment must include a corrected reference with respect to the defective reference to U.S. provisional application 60/547,385, or the reference to such provisional application must be removed. As an alternative

[1] It appears that a typographical error may be present in the provisional application number, as the title and the inventors listed for the provisional application in applicants' amendment do not match those in the USPTO records for such provisional application.
[2] *Note* 37 CFR 1.121

to a substitute amendment, applicants may submit an Application Data Sheet (37 CFR 1.76) which contains acceptable benefit claims to the appropriate applications..

Further correspondence with respect to this matter should be addressed as follows:

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Randolph Building
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Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Boris Milef
Legal Examiner
Office of Petitions and PCT Legal Administration

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THE ECLIPSE GROUP LLP
10605 BALBOA BLVD., SUITE 300
GRANADA HILLS CA 91344

In re Application of:	:	
UNDERBRINK, Paul, et al.	:	DECISION ON RENEWED
U.S. Application No.: 11/014,684	:	PETITION UNDER 37 CFR
Filing Date: December 16, 2004	:	1.78(a)(3) AND
Atty Docket No.: ST04003USU (267-US-U1)	:	37 CFR (a)(6)
For: EDGE-ALIGNED RATIO COUNTER	:	

This decision is issued in response to the "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6)" filed May 18, 2009. No additional petition fee is required.

BACKGROUND

The background for the present decision was set forth in the decision mailed on December 02, 2008. That decision dismissed applicant's petition under 37 CFR 1.78(a)(3) and (a)(6) for failure to satisfy all the requirements of a grantable petition. Specifically, the amendment filed by applicant with such petition included an unacceptable reference with respect to one of the U.S. prior-filed provisional applications listed therein.

On December 15, 2008, an Office Action was mailed in accordance with the practice under *Ex parte Quayle,* 1935 C.D. 11, 453 O.G. 213.

On May 18, 2009, applicants filed the "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6) considered herein, accompanied by a revised amendment, a "Response To Office Action Mailed December 15, 2008," and payment of the required three-month extension fee.

DISCUSSION

The previous decision indicated that the amendment filed with applicant's original petition was unacceptable because one of the three U.S. provisional applications referred to in the amendment (60/547,385) did not have an inventor in common with the present application.

The renewed petition is accompanied by a revised amendment in which the application number for U.S. provisional application 60/547,385 has been corrected to application number 60/547,384. U.S. application number 60/547,384 does have an inventor in common with the present application; however, as discussed below, the reference to U.S. provisional application number 60/547,384 contained in the present amendment is unacceptable as submitted.

MPEP section 201.11(II)(A) states the following (emphasis added):

> Applicant may claim the benefit of a provisional application by claiming the benefit of an intermediate copending nonprovisional application. The later-filed application must claim the benefit of the intermediate nonprovisional application under 35 U.S.C. 120, 121, or 365(c); the intermediate application must be filed not later than 12 months after the filing date of the provisional application; and **both the later-filed application and the intermediate application must claim the benefit of the provisional application under 35 U.S.C. 119(e).**

The revised amendment filed on 18 May 2009 identifies the present application as a continuation of PCT/US2004/028542 and PCT/US2004/028926 and claims the benefit of provisional application 60/547,384 through both of these two intermediate non-provisional applications. Thus, in order for the reference to be acceptable, both intermediate applications (PCT/US2004/028542 and PCT/US2004/028926) must claim the benefit of provisional application 60/547,384. A review of the two international applications reveals that the first page of PCT/US2004/028926 includes a claim of benefit directed to 60/547,384; however, PCT/US2004/028542 does not include a claim of benefit directed to 60/547,384.[1]

Based on the above, the portion of the present amendment indicating that PCT/US2004/028542 claims priority under 35 U.S.C. 119(e) to U.S. provisional application number 60/547,384 is incorrect. The amendment is therefore not acceptable as filed, and the final element of a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) remains unsatisfied.

It is noted that, if the reference to PCT/US2004/028542 claiming priority under 35 U.S.C. 119(e) to U.S. provisional application number 60/547,384 was removed from the present amendment, the amendment would include an acceptable reference to provisional application number 60/547,384, as claimed through intermediate application PCT/US2004/028926.

CONCLUSION

The "Renewed Petition Under 37 CFR 1.78(a)(3) and (a)(6)" is **DISMISSED** without prejudice.

Before the petition can be granted, a substitute amendment[2] is required, along with a second renewed petition under 37 CFR 1.78(a)(3) and (a)(6). The substitute amendment must include a corrected reference with respect to U.S. provisional application 60/547,384, or the reference to such provisional application must be removed. As an alternative to a substitute amendment, applicants may submit an Application Data Sheet (37 CFR 1.76) which contains acceptable benefit claims to the appropriate applications..

Further correspondence with respect to this matter should be addressed as follows:

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[1] As with the PCT priority claims listed on both of these international applications, the first page of PCT/US2004/028542 includes a claim of benefit directed to 60/547,385, not 60/547,384.
[2] *Note* 37 CFR 1.121

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By fax: (571) 273-8300
ATTN: Office of PCT Legal Administration

Any questions concerning this matter may be directed to Richard M. Ross at (571) 272-3296.

Bryan Lin

Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration

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RATNERPRESTIA
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VALLEY FORGE PA 19482

In re Application of:	:	
UNDERBRINK, Paul, et al.	:	DECISION ON SECOND
U.S. Application No.: 11/014,684	:	RENEWED PETITION UNDER
Filing Date: December 16, 2004	:	37 CFR 1.78(a)(3) AND
Atty Docket No.: ST04003USU (267-US-U1)	:	37 CFR (a)(6)
For: EDGE-ALIGNED RATIO COUNTER	:	

This is a decision on the "Second Renewed Petition Under 37 CFR 1.78(a) and (a)(6)" filed January 18, 2010. The petition seeks acceptance of an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of the two prior-filed international applications and the three prior-filed U.S. provisional applications identified in the concurrently filed amendment. Applicants have previously paid the required petition fee.

The petition is **GRANTED**.

37 CFR 1.78(a)(3) applies where an applicant seeks to add a late claim of benefit under 35 U.S.C. 120 and 365(c) to a prior-filed international application designating the United States; 37 CFR 1.78(a)(6) applies where an applicant seeks to add a late claim of priority to a prior-filed provisional application. Applicant here is seeking to add priority claims to two international applications (PCT/US2004/028542 and PCT/US2004/028926) and three provisional applications (60/499,961, 60/546,816, and 60/547,384). Accordingly, the present petition is properly considered under both 37 CFR 1.78(a)(3) and (a)(6).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii).

The present non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed applications is submitted after expiration of the periods specified in 37 CFR 1.78(a)(2)(ii) and 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3) and 1.78(a)(6).

A petition 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 present petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) and (a)(6) in that: (1) proper references to the prior-filed international applications and the provisional applications have been included in the revised amendment submitted with the present petition, as provided by 37 CFR 1.78(a)(2)(iii) and (a)(5)(i); (2) applicant has previously submitted payment of the required surcharge; and (3) the petition includes a proper statement of unintentional delay. Accordingly, having found that the petition for acceptance of the unintentionally delayed claims for the benefit of priority under 35 U.S.C. 120 and 119(e) to the prior filed applications satisfies the conditions of 37 CFR 1.78(a)(3) and (a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed international application under 37 CFR 1.78(a)(3) and (a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 119(e) and 37 CFR 1.78(a)(1), (a)(2), (a)(5), and (a)(6) must be met. Similarly, the fact that the Filing Receipt accompanying this decision on petition will include 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 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 international application, accompanies this decision on petition.

Any questions concerning this decision may be directed to Richard M. Ross at (571) 272-3296. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2857 for appropriate consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 and 119(e) to the prior-filed international and provisional applications.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT legal Administration

ATTACHMENT: Corrected Filing Receipt

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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 04/21/2010

Applicant	: David L. Brock	: DECISION ON REQUEST FOR
Patent Number	: 7604642	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,687	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1253** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070

Mail Date: 05/18/2010

Applicant : David L. Brock
Patent Number : 7604642
Issue Date : 10/20/2009
Application No : 11/014,687
Filed : 12/16/2004

: 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 **1287** 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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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN NJ 08830

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SEP 26 2008

In re Application of	:	
Michael J. Hornby	:	
Application No. 11/014,694	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 2004P19370US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 29, 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 August 30, 2007. The Notice of Abandonment was mailed December 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 that prima facie places the application in condition for allowance; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 3752 for appropriate action on the concurrently filed amendment.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Gary H. Monka**
Caravan & Monka LLC
62 Grove Street
Somerville, NJ 08876

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JUL 18 2008

In re Application of	:	
Michael J. Hornby	:	
Application No. 11/014,697	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 2004P20714US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed April 27, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 28, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1540, and (3) a proper statement of unintentional delay.

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 undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3752 for appropriate action by the Examiner in the normal course of business on the reply received January 7, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

cc: GARY H. MONKA
CANAVAN & MONKA, LLC
62 GROVE STREET
SOMERVILLE, NJ 08876

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW
GARRETT & DUNNER L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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JAN 24 2007

OFFICE OF PETITIONS

Applicant: Parris et al.
Appl. No.: 11/014,704
Filing Date: December 20, 2004
Title: DETERGENT COMPOSITION COMPRISING AT LEAST ONE SEMI-CRYSTALLINE POLYMER AND AT LEAST ONE OIL
Attorney Docket No.: 05725.1393-00000
Pub. No.: US 2005/0261159 A1
Pub. Date: November 24, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on January 24, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in paragraph [0016] wherein "ranging from 1 to 100 μm (microns), such as from 5 to 30 μm, or even from 10 to 20 μm" is misprinted as "ranging from 1 to 100 μm (microns), such as from 5 to 30 μm, or even."

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed within two months from the date of the patent application publication. This period is not extendable." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The error noted by requestor in paragraph [0016] wherein "ranging from 1 to 100 μm (microns), such as from 5 to 30 μm, or even from 10 to 20 μm" is misprinted as "ranging from 1 to 100 μm (microns), such as from 5 to 30 μm, or even" is not a material Office error under 37 CFR 1.221. The error noted by requestor with respect to the typographical error in this published application

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

may be due to the poor quality text on page 3, line 7, as the text is faint and contains a streak through the words. The mistake is a minor printing error, which does not affect the understanding of the application. 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.

The text on page 3, line 7 is not clear, which makes it difficult to read and difficult to electronically reproduce. The text of the application must be written by either a typewriter or machine printed in dark ink. See 37 CFR 1.52. The text is not clear, as the text is faint and contains a streak, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. Patent application publications with errors, which are due to the legibility of the text in the application will not be corrected by corrected publication under 37 CFR 1.221(b).

Applicants have been advised to file applications having larger text, which is cleaner and with sufficient clarity and contrast to permit reproduction to avoid errors in the patent application publication process. See 37 CFR 1.52.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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SILVERBROOK RESEARCH PTY LTD
393 DARLING STREET
BALMAIN 2041 AU AUSTRALIA

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AUG 0 8 2008

In re Application of	:	
Kia Silverbrook	:	
Application No. 11/014,730	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. WPA001US	:	

This is a decision on the petition under 37 CFR 1.137(b), filed April 9, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 11, 2007. A Notice of Abandonment was subsequently mailed on April 8, 2008. In response, on April 9, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2861 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

A2

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Paper No. 031605

MAR 2 5 2005

MCDERMOTT, WILL & EMERY
18191 VON KARMAN AVE.
SUITE 400
IRVINE, CA 92612-0187

In re Application of	:	
SLAWOMIR J. FIEDZIUSZKO et al.	:	DECISION ON PETITION
Application No. 11/014,819	:	
Filed: December 20, 2004	:	
Attorney Docket No. 070602-0562	:	

This is a decision on the petition under 37 C.F.R. § 1.102, filed March 03, 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 the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed to a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.

Jose' G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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NOV 28 2007

OFFICE OF PETITIONS

In re Application of :
Akira Suzuki :
Application No.: 11/014,830 : ON PETITION
Filed: December 20, 2004 :
Attorney Docket No.: Q85283 :

This is a decision on the petition, filed November 27, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 25, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2809 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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21440 WEST LAKE COOK ROAD
PATENTS AND LICENSES, 7TH FLOOR
DEER PARK IL 60010

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APR 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Patrick D. Jordon et al.	:	
Application No. 11/014,936	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. IS01644AIC	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 18, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 4, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed October 4, 2007, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 5, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 and the publication fee of $300, (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Office of Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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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
11/014,936	12/17/2004	Patrick D. Jordan	IS01644AIC

CONFIRMATION NO. 5849

POWER OF ATTORNEY NOTICE

42002
DONNA & WILLIAM CONN
20306 SEABROOK DRIVE
MONTGOMERY VILLAGE, MD 20886

OC000000035302161

Date Mailed: 04/02/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/18/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/jlburke/

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 NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/014,936	12/17/2004	Patrick D. Jordan	IS01644AIC

CONFIRMATION NO. 5849

POA ACCEPTANCE LETTER

OC000000035302173

64588
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TEMIC AUTOMOTIVE OF NORTH AMERICA, INC.
21440 WEST LAKE COOK ROAD
PATENTS AND LICENSES, 7TH FLOOR
DEER PARK, IL 60010

Date Mailed: 04/02/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/18/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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DEER PARK, IL 60010

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APR 23 2009

OFFICE OF PETITIONS

In re Application of :
Patrick D. Jordan, et al. :
Application No.: 11/014,936 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No.: IS01644AIC :

This is a decision on the petition, filed April 21, 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 February 18, 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 2616 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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Patents & Licenses
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Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Patrick D. Jordan	: DECISION ON REQUEST FOR
Patent Number	: 7593429	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/014,936	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of	:	
Michael L. Hattendorf, et al.	:	
Application No. 11/014,937	:	DECISION GRANTING PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 42P20395	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 27, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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DICKSTEIN SHAPIRO MORIN & OSHINSKY LLP
2101 L Street, NW
Washington, DC 20037

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APR 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Dall'Aglio and Montanari	:	
Application No. 11/014,955	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No.: **M1885.0035/P035-C**	:	

This is a decision on the petition filed March 25, 2005, titled "Petition for Withdrawal of Notice of Omitted Items."

The petition is **dismissed**.

The application was filed on December 20, 2004, as a continuation of U.S. application 10/657,086. On February 2, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Items of Non-provisional Application ("Notice") stating that the application had been accorded a filing date of December 20, 2004, but that Figures 5,6, and 7, as described in the specification, appeared to have been omitted.

In response, on March 25, 2005, applicant filed the omitted figures and the instant petition and indicating that the subject application incorporated by reference the entirety of a prior filed application that contained Figures 5, 6, and 7.

The Notice permits applicant to either: (1) promptly establish prior receipt in the Office of the items at issue (generally by way of a date-stamped postcard receipt (MPEP 503)), or (2) promptly submit the omitted items and accept the date of such submission as the application filing date. An applicant asserting that the missing items were in fact deposited in the Office with the application papers must file a petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted items in a non-provisional application and accept the date of such submission as the application filing date must file any omitted items with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such omitted items and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)).

Petitioner appears to concedes that Figures 5, 6, and 7 were omitted, but argues that the specification identified the above-cited application as a continuation of application number 10/657,086 and specifically incorporated by reference the entire disclosure of the prior application.

An applicant may incorporate by reference the prior application by including in the application-as-filed, a statement that such specifically enumerated prior application or applications are hereby incorporated by reference. The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior applications(s) will permit an applicant to amend continuation application to include any subject matter in such prior application(s), without the need for a petition. See MPEP 201.06(c).

In view of the incorporation by reference of the prior application, Figures 5, 6, and 7 are not new matter if they were part of the disclosure of the prior application. Figures 5, 6, and 7 filed with the instant petition will not be processed, but will be retained in the application file. Applicant should file a preliminary amendment requesting entry of the figures prior to the first action on the merits.

As this petition was necessitated by applicants' filing error, rather than an error on the part of the Office, the petition fee will not be refunded.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2004 using only the application papers filed on that date.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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: 07-06

Paper No: __

WENDEROTH, LIND
& PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of		
Fuse	:	
Application No. 11/014,993	:	ON PETITION
Filed: 20 December, 2004	:	
Attorney Docket No.: 2004-2009	:	

This is a decision on the request filed on 5 December, 2005, under 37 C.F.R. §1.182 and also properly considered under 37 C.F.R. §1.181 to withdraw the Terminal Disclaimer filed on 16 August, 2005, from the instant application.

The Office regrets the delay in addressing this matter, however, the petition was received into the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.181 and §1.182 is **GRANTED**.

BACKGROUND

It appears that:

- Petitioner is prosecuting the instant application on behalf of the Applicant;

- on 16 August, 2005, Petitioner filed, *inter alia*, an amendment in response to an Office action, and at that time, Petitioner indicates, he filed into this application a Terminal Disclaimer (entitled "Terminal Disclaimer Under 37 C.F.R. [§]1.321") with fee authorization;

- Petitioner now:

  –sets forth the history and divisional nature of the instant application, which, Petitioner asserts, now obviates the requirement of the Terminal Disclaimer to overcome double patenting objections;

  –and seeks to have the Terminal Disclaimer withdrawn from the instant application.

The Examiner has indicated (upon inquiry from the Office of Petitions) his assent (a copy of which is made of record) to the request to withdraw the terminal disclaimer previously filed by Petitioner as associated with the instant application.

Accordingly, the petition as considered under 37 C.F.R. §1.181 and §1.182 to withdraw the terminal disclaimer previously filed by Petitioner with this application is **granted**.

The instant file is being released to the Examiner in Technology Center 2600 for further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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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DEC 07 2009

OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:
Pavliak et al.	: DECISION ON APPLICATION FOR
Patent Number: 7,531,633	: PATENT TERM ADJUSTMENT and
Issue Date: 05/12/2009	: NOTICE OF INTENT TO ISSUE
Application No. 11/014997	: CERTIFICATE OF CORRECTION
Filing or 371(c) Date: 12/20/2004	:
Attorney Docket Number: 018861-0303	:

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed June 3, 2009. Patentees submit that the correct patent term adjustment is 883 days, not 509 days as indicated on the patent. Patentees have recalculated the Patent Term Adjustment ("PTA") under the courts interpretation of the PTA statute as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees' recalculation of the adjustment is set forth on an accompanying attachment. The matter is properly treated under 37 CFR 1.705(d).

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

On May 12, 2009, the above-identified application matured into U.S. Patent No. 7,531,633, with a patent term adjustment of 509 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees do not dispute the adjustment of 480 days pursuant to 37 CFR 1.702(a)(1) as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Patentees also acknowledge an Applicant delay of 106 days in connection with the amendment filed September 26, 2008.

A review of the record reveals that patentees are correct in that the Office errantly neglected to assess a reduction of 106 days in accordance with 37 CFR 1.704(c)(7) in connection with the amendment filed September 26, 2008. The reduction commenced June 13, 2008, the day after the date the initial reply (amendment) was filed and ended September 26, 2008, the date that the reply (amendment) correcting the omission was filed.

Patentees assert that the court in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008), determined that, under the correct interpretation of the PTA statute, periods of "overlap" are limited to "periods of time... [that] occur on the same day" and that a PTO delay under 35 USC 154(b)(1)(A) overlaps with a delay under 35 USC 154(b)(1)(B) only if the delays "occur on the same day."

Patentees provide that the patent is entitled to an adjustment pursuant to 35 USC 154(b)(1)(A) of 480 days and an adjustment pursuant to 35 USC 154(b)(1)(B) of 509 days. Thus, patentees assert entitlement to an overall patent term adjustment of 883 days (480 days under 35 USC (b)(1)(A) *plus* 509 days under 35 USC (b)(1)(B) *less* 106 days of applicant delay under 37 CFR 1.704).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on May 12, 2009, the application was pending three years and 509 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 480 days is correct. At issue is whether patentees should accrue 509 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 480 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that period of 480 days of examination delay overlaps with the period of 509 days of over three year delay. 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)(1)(A) is the entire period during which the application was pending before the Office, December 20, 2004, to the date the patent issued on May 12, 2009. Prior to the issuance of the patent, 480 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 480 days of Office delay overlap with the 509 days for Office delay in issuing the patent. During that time, the issuance of the patent was delayed by 509 days, not 509 days + 480 days. The Office took 14 months and 480 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 480 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 509 days after its filing date. The Office did not delay 480 days and then delay an additional 509 days. Accordingly, 509 days of patent term adjustment was properly entered because the period of delay of 480 days attributable to grounds specified in § 1.702(a) overlaps with the adjustment of 509 days attributable to the delay in the issuance of the patent.

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

In view thereof, the patent is entitled to an adjustment of 403 days (509 days of Office delay *less* 106 days of applicant delay).

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 THREE (403) DAYS.**

Any request for reconsideration of this decision must be submitted within ONE MONTH of the mail date indicated herein. The time period for seeking reconsideration is not subject to extension under 37 CFR 1.136.

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 Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,633 B2

DATED : May 12, 2009

INVENTOR(S) : Pavliak 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 509 days.

Delete the phrase "by 509 days" and insert – by 403 days--

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OFFICE OF PETITIONS

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

In re Application of	:	
Pavliak et al.	:	
Patent Number: 7,531,633	:	DECISION ON REQUEST
Issue Date: 05/12/2009	:	FOR RECONSIDERATION OF
Application No. 11/014997	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 12/20/2004	:	and
Title of Invention:	:	NOTICE OF INTENT TO ISSUE
STAPHYLOCOCCUS ANTIBODIES	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on January 6, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred eighty-three (883) 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 eighty-three (883) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of 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 eighty-three (883) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,531,633 B2

DATED : **May 12, 2009**

INVENTOR(S) : Pavliak 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 509 days.

Delete the phrase "by 509 days" and insert – by 883 days--

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DICKINSON WRIGHT PLLC
1875 EYE STREET, NW
SUITE 1200
WASHINGTON DC 20006

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OFFICE OF PETITIONS

ON PETITION

In re Application of
John A. Scialdone et al.
Application No. 11/015,001
Filed: December 20, 2004
Attorney Docket No.: **35521-0006**

This is a decision on the petition filed November 27, 2007 under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 10, 2007. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested prior to abandonment, this application became abandoned July 11, 2007. Accordingly, a Notice of Abandonment was mailed October 16, 2007.

37 CFR 1.137(b)(3) however, requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being 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 petition.

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

Additionally, the record reveals that after the abandonment and with the instant petition to revive, a three month extension of time was filed, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $525.00 extension of time fee submitted with the petition on November 27, 2007 was subsequent to the maximum period obtainable for reply, this fee is unnecessary and will be credited back to the credit card used.

This matter is being referred to Technology Center 3749 for appropriate action on the amendment filed November 27, 2007.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

Chang Hsi-Ching
P.O. Box 487
Chang-Hua TW TAIWAN

In re Application of
Chang Hsi-Ching
Application No. 11/015,010
Filed: December 20, 2004
Attorney Docket Number: K-136-1-A
Title: FOOD BOX WITH A WINDOWED COVER AND METHOD FOR MAKING THE SAME

DECISION ON PETITION UNDER 37 C.F.R. § 1.137(b)

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b)[1], to revive the above-identified application, filed on July 20, 2007.

The above-identified application became abandoned for failure to reply in a timely manner to the notice of non-compliant amendment, mailed May 24, 2006, which set a period for reply of one month. A signed amendment was received on June 28, 2006 without a certificate of mailing, and no extension of time was requested. No further responses were received. Accordingly, the above-identified application became abandoned on June 25, 2006. A notice of abandonment was mailed on January 23, 2007.

With the present petition, Petitioner has submitted the petition fee and has made the required statement of unintentional delay. A terminal disclaimer is not required.

1 A grantable petition pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

As such, the present petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on June 28, 2006 can be processed.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence unless a Change of Correspondence Address Form (PTO/SB/122) is submitted for the above-identified application. A blank Change of Correspondence Address Form (PTO/SB/122) may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[2]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

cc: Chang Hsi-Ching
P.O. Box 215
Taichung City, TW TAIWAN 40099

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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 Petitioner's further action(s).

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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C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Hideto Furuyama, et al.	:	
Application No. 11/015,013	:	DECISION GRANTING PETITION
Filed: December 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 263472US2RD	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 14, 2006, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 11, 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 concerning this decision should be directed to April Wise at (571) 272-1642.

This application is being referred to Technology Center AU 2826 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and information disclosure statement.

Frances Hicks

Frances M. Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of Nishiyama et al. :
Application No. 11/015,109 : Decision on Petition
Filing Date: December 17, 2004 :
Attorney Docket No. SP04-131 :

This is a decision on the petition filed September 11, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

Drawings were filed as part of the original application papers on December 17, 2004.

An Office action mailed June 20, 2006, stated the drawings filed on December 17, 2004, were accepted.

A Notice of Allowability was mailed May 15, 2007.

The Notice of Allowability stated the application would go abandoned unless corrected drawings were filed that included changes required by the Office action of "4/26/07." The Office did not mail an Office action on April 26, 2007. Other than the reference to an Office action mailed 4/26/07, the Notice of Allowability fails to provide any indication of the corrections that need to be made to the drawings.

The paper attached to the Notice of Allowability stated,

> New corrected drawings are required in this application because the application has been allowed. The corrected drawings are required in reply to the Office action, to avoid abandonment.

The Notice of Allowability set a period for reply of three (3) months.

Petitioner did not reply to the Notice of Allowability. As a result, the application became abandoned July 27, 2007.

A Notice of Abandonment was mailed August 27, 2007.

Discussion:

Petitioner has provided arguments to establish the Notice of Allowability should not have required corrected drawings. The examiner has informed the undersigned the requirement for corrected drawings was erroneously included as part of the Notice of Allowability.

Although petitioner has demonstrated the requirement for corrected drawings on the Notice of Allowability was erroneous, petitioner has not proven the application is not abandoned.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. The statute does not distinguish "correct" Office actions from "incorrect" Office actions. An Office action in the form of a Notice of Allowability was mailed May 15, 2007. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner 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 ($1,440 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 blank petition under 37 CFR 1.137(b) form m can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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
Alexandria, VA 22313-1450
www.uspto.gov

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE
SUITE 101
ELLICOTT CITY MD 21043

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FEB 26 2008

In re Application of	:	
Juan Alberto Buitrago	:	
Application No. 11/015,020	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. MR3529-23/C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 10, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response, (2) the petition fee of $1,540, (3) a proper statement of unintentional delay, and (4) a terminal disclaimer and fee as required by 37 CFR 1.137(d).

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2117 for appropriate action by the Examiner in the normal course of business on the reply received October 10, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

ROSENBERG, KLEIN & LEE
3458 ELLICOTT CENTER DRIVE-SUITE 101
ELLICOTT CITY, MD 21043

Mail Date: 04/20/2010

Applicant	: Vitaly Lagoon	: DECISION ON REQUEST FOR
Patent Number	: 7613973	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,020	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1033** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT
1940 DUKE STREET
ALEXANDRIA VA 22314

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OFFICE OF PETITIONS

In re Application of	:	
Yoshihiro Minami	:	
Application No. 11/015,036	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 263679US2	:	

This is a decision on the petition, filed June 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 4, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 2811 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).

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. _____

Date : June 19, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Yoshihiro Minami
Application No. :11/015,036
Filed :December 20, 2004

The above-identified application has been assigned Patent No. 7,067,885 and an issue date of June 27, 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 June 27, 2006:

"All reference to Patent No. 7,067,885 to Yoshihiro Minami of Japan for SEMICONDUCTOR DEVICE appearing in the Official Gazette of June 27, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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JJGJr: 04-06

Paper No: __

WOMBLE CARLYLE
SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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APR 0 7 2006

OFFICE OF PETITIONS

In re Application of
Pylkki, et al. :
Application No. 11/015,040 : ON PETITION
Filed: 17 December, 2004 :
Attorney Docket No.: A202 1441.4 :

This is a decision on the petition filed (with fee) on 3 March, 2006, to expunge a document from the file and considered under 37 C.F.R. §1.59.[1]

The petition under 37 C.F.R. §1.59 is **DISMISSED**.

The instant application was filed on 17 December, 2004, and thereafter a series of Information

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[1] The regulations at 37 C.F.R. §1.58 provide:

§1.59 Expungement of information or copy of papers in application file.

(a)(1)Information in an application will not be expunged and returned, except as provided in paragraph (b)of this section. See §1.618 for return of unauthorized and improper papers in interferences.

(2)Information forming part of the original disclosure (*i.e.*,written specification including the claims, drawings, and any preliminary amendment specifically incorporated into an executed oath or declaration under §§1.63 and 1.175)will not be expunged from the application file.

(b)An applicant may request that the Office expunge and return information, other than what is excluded by paragraph (a)(2)of this section, by filing a petition under this paragraph. Any petition to expunge and return information from an application must include the fee set forth in § 1.17((h)and establish to the satisfaction of the Commissioner that the return of the information is appropriate.

(c)Upon request by an applicant and payment of the fee specified in §1.19(b),the Office will furnish copies of an application, unless the application has been disposed of (see §1.53(e),(f)and (g)). The Office cannot provide or certify copies of an application that has been disposed of.

[48 FR 2710, Jan.20, 1983, effective Feb. 27, 1983; 49 FR 554, Jan.4, 1984, effective Apr.1, 1984; 49 FR 48416, Dec. 12, 1984, effective Feb. 11, 1985; 50 FR 23123, May 31, 1985, effective Feb.11, 1985; revised, 60 FR 20195, Apr. 25, 1995, effective June 8, 1995; revised, 62 FR 53131, Oct.10, 1997, effective Dec. 1, 1997; para. (b) revised, 65 FR 54604, Sept. 8, 2000, effective Nov.7, 2000]

Disclosure Statements (generally filed on Form PTO/SB/08A/B, in lieu of PTO Form 1449A) (IDS) were filed, with the most recent having been deposited by Petitioner with the Office on 13 February, 2006.

Petitioner wishes to remove the copy reference identified as 314 on page 22 or 23 of the Supplemental IDS deposited of record on 13 February, 2006.

However, what Petitioner is asking is the altering of part of a document, which is not an action subject of 37 C.F.R. §1.59.

Petitioner may alternatively submit a substitute of the PTO/SB/08A/B to be substituted and considered by the Examiner in the place of the document deposited on 13 February, 2006.

For this purpose, Petitioner is given one (1) month, which period is *not* extendable under the provisions of 37 C.F.R. §1.136, and in no case less than 30 days within which to file this replacement document, which the Examiner may substitute for the IDS containing the improvident reference and then consider in due course.

The instant application is released to Technology Center 3600 to await for one (1) month and in no case less than 30 days the above described filing, before further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: Mark Horton	: DECISION ON REQUEST FOR
Patent Number	: 7640169	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,049	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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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SUN MICROSYSTEMS, INC.
C/O DARBY & DARBY P.C.
P.O. BOX 770
CHURCH STREET STATION
NEW YORK, NY 10008-0770

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OFFICE OF PETITIONS

In re Application of :

AINGARAN, et al. :
Application No. 11/015,055 :
Filed: December 17, 2004 :
Attorney Docket No. **20910/0205438-US0** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 18, 2008.

The request is **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 W. Branch 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: **KATHIRGAMAR AINGARAN**
1271 VINCENT DRIVE, APT 174
SUNNYVALE, CA 94086

cc: **OSHA LIANG LLP**
1221 MCKINNEY, SUITE 2800
HOUSTON, TX 77010

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PCE INDUSTRY, INC.
ATT. CHENG-JU CHIANG JEFFREY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON, CA 92835

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JUN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Fang-Xiang Yu et al	:	
Application No. 11/015,056	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 14963-47937	:	

This is a decision on the petition, filed January 29, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Fu Zhun Precision Industry and Foxconn Technology Co., and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Fu Zhun Precision Industry and Foxconn Technology Co.,.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Fu Zhun Precision Industry and Foxconn Technology Co., has been recorded. Therefore, upon submission of the required certificate

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that to Fu Zhun Precision Industry and Foxconn Technology Co., was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth to Fu Zhun Precision Industry and Foxconn Technology Co.,, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

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.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Tim Tingkang Xia
Morris, Manning & Martin, LLP
3343 Peachtree Road, N.E.
Atlanta, GA 30326-1044

UNITED STATES PATENT AND TRADEMARK OFFICE

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7-16-07

Patent No. : 7,180,746
Ser. No. : 11/015,056
Inventor(s) : Fang-Xiang Yu, et. al.
Issued : February 20, 2007
Title : RETAINING DEVICE FOR HEAT SINK
Docket No. : 14963-47937

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:

Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

(See letter attached).

Eva James
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 105

Tim Tingkang Xia
Morris, Manning & Martin
1600 Atlanta Financial Center
3343 Peachtree Road, NE
Atlanta, Georgia 30326-1044

ej

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Commissioner for Patents
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ATT. CHENG-JU CHIANG JEFFREY T. KNAPP
458 E. LAMBERT ROAD
FULLERTON, CA 92835

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JUN 1 8 2007

OFFICE OF PETITIONS

In re Application of :
Fang-Xiang Yu et al :
Application No. 11/015,056 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No. 14963-47937 :

This is a decision on the petition, filed January 29, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) so that the Letters Patent will issue to the assignee.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Fu Zhun Precision Industry and Foxconn Technology Co., and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Fu Zhun Precision Industry and Foxconn Technology Co.,.

37 CFR 3.81(b), effective June 25, 2004, reads:

> *After payment of the issue fee:* Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by a request for a certificate of correction (and fee) as required by 3.81(b). *See also* MPEP 1481.01. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

A review of Office database assignment records reflects that an assignment to Fu Zhun Precision Industry and Foxconn Technology Co., has been recorded. Therefore, upon submission of the required certificate

[1] *See* MPEP 1309, subsection II and Official Gazette of June 22, 2004

of correction and fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that to Fu Zhun Precision Industry and Foxconn Technology Co., was the assignee of record at the time of issuance of the application into a patent. *Note also* 35 U.S.C. § 152.

In view of the above and **after issuance of this application into a patent, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of a request for a certificate of correction (and fee) which sets forth to Fu Zhun Precision Industry and Foxconn Technology Co.,, as the assignee**. *No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision* ***must*** *accompany the request for a Certificate of Correction.*

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction.

Alternatively, if petitioner desires to have the correct assignee data appear on the front page of the Letters Patent, petitioner may wish to consider filing a petition to withdraw the subject application from issue under 37 CFR 1.313(c)(2). The petition to withdraw from issue under 37 CFR 1.313(c)(2) must be accompanied by a request for continued examination (RCE) and submission (which may be a request under 37 CFR 3.81(b)).

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.

Inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Tim Tingkang Xia
Morris, Manning & Martin, LLP
3343 Peachtree Road, N.E.
Atlanta, GA 30326-1044

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CAMPBELL STEPHENSON LLP
11401 CENTURY OAKS TERRACE
BLDG. H, SUITE 250
AUSTIN TX 78758

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JUN 07 2010

OFFICE OF PETITIONS

In re Application of
Keller et al
Application No.11/015,088
Filed: December 17, 2004
Attorney Docket No. OIC0124US

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 4, 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 (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 extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 5, 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 Notice of Appeal and fee; (2) the petition fee of $1620.00; and (3) a proper statement of unintentional delay.

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 2174.

Charlema Grant
Petitions Attorney
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Stewart, et al.	:	
Application No. 11/015,093	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. 1100-0026.20 (BAS026CIP)	:	FROM RECORD
	:	

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 15, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Townsend and Townsend and Crew, LLP has been revoked by the assignee of the patent application on December 27, 2005. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: ROBINS & PASTERNAK
1731 EMBARCADERO ROAD
SUITE 230
PALO ALTO CA 94303

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/015,098	12/17/2004	Deepak Srivastava	UTSW:1615	5940

23379 7590 06/05/2009
RICHARD ARON OSMAN
4070 CALLE ISABELLA
SAN CLEMENTE, CA 92672

EXAMINER
SALMON, KATHERINE D

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
06/05/2009	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):

RICHARD@SCI-TECH.COM
jan@sci-tech.com

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JUN 0 5 2009

RICHARD ARON OSMAN
4070 CALLE ISABELLA
SAN CLEMENTE CA 92672

In re Application of :	:
Srivastava et al.	:
Serial No.: 11/015,098	: PETITION
Filed: December 17, 2004	:
Attorney Docket No.: **UTSW:1615**	:

This is in reply to the "response or petition" filed June 2, 2009 to enter the amendments of June 2, 2009.

DISCUSSION

It is pointed out the paper of June 2, 2009 is being treated as a "response" and not a petition. It is pointed out that requests to do either a or b are not considered proper. If, in fact, the examiner fails to enter the amendment of June 2, 2009, applicants' may then choose to file a petition under under 37 CFR § 1.181.

In view of the above reason, the petition is **DISMISSED**.

The examiner will be instructed to consider applicants' response and arguments set forth in the response filed on June 2, 2009.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/015,098	12/17/2004	Deepak Srivastava	UTSW:1615	5940

23379 7590 08/18/2009
RICHARD ARON OSMAN
4070 CALLE ISABELLA
SAN CLEMENTE, CA 92672

EXAMINER
SALMON, KATHERINE D

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
08/18/2009	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):

RICHARD@SCI-TECH.COM
jan@sci-tech.com

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AUG 1 8 2009

RICHARD ARON OSMAN
4070 CALLE ISABELLA
SAN CLEMENTE CA 92672

In re Application of	:
Srivastava et al.	:
Serial No.: 11/015,098	:DECISION ON PETITION
Filed 17 December 2004	:
Attorney Docket No.: UTSW:1615	:

This letter is in response to the Petition filed on 23 June 2009 requesting entry of the amendment filed 2 June 2009.

BACKGROUND and DISCUSSION

This application was filed on 17 December 2004 and following examination, appealed to the Board of Patent Appeal and Interferences on 14 April 2008.

On 1 April 2009, the Board of Patent Appeals and Interferences affirmed the rejections of claims 1, 2, 4, 5 and 7-12 for lack of adequate written description, affirmed the rejections of claims 1, 2, 5 and 7-12 and 24 for nonenablement and reversed the rejection of claims 3, 6, 21 and 25-28 for nonenablement.
Claims 3, 6, 21 and 25-28 depend directly or independently from claim 1.

Claim 3 as amended on 12 September 2007 is set forth below.

> 3. (Currently Amended) The method of claim 1 wherein the ~~allele comprises a single nucleotide polymorphism (SNP)~~ SNP is selected from the group consisting of G1862A (R621H), C2542A (E848K), G2816A (R939Q), C3322T (R1108X), G3839A (R1280H), C4310T (A1437V), 4515Del (H1505del), G4826A (R1609H), C6817T (R2273C), and G6856A (V22861).

On 2 April 2009, applicants filed the following amendment to cancel claim 3 and move Markush grouping from claim 3 into independent claim 1.

1. (Currently Amended) A method of identifying a human individual for increased risk for vascular pathology the method comprising the step of:

(a) determining whether the individual's genome comprises a Notch1 single-nucleotide polymorphism (SNP) allele causing Notch1 haploinsufficiency and predetermined to be associated with an increased risk for vascular pathology, wherein the presence of the allele identifies the individual as at increased risk for vascular pathology, wherein the determining step comprises detecting the allele, wherein the SNP is selected from the group consisting of G1862A (R621H), C2542A (E848K), G2816A (R939Q), C3322T (R1108X), G3839A (R1280H), C4310T (A1437V), 4515Del (H1505del), G4826A (R1609H), C6817T (R2273C), and G6856A (V2286I).

On 4 May 2009, the examiner sent out a miscellaneous action which denied entry of the amendment.

On 4 May 2009, applicants filed an amendment to move Markush grouping from claim 3 into independent claim 1.

On 28 May 2009, the examiner sent out a miscellaneous action which denied entry of the amendment.

On 2 June 2009, applicants filed an amendment to move Markush grouping from claim 3 into independent claim 1.

On 23 June 2009, the examiner sent out a miscellaneous action which denied entry of the amendment.

On 23 June 2009, applicants submitted the petition under review.

The petition and file history have been carefully considered, relative to the claims as currently pending.

The Board decision affirms the rejection of independent claim 1 and reverses all rejections on dependent claim 3, 6, 21 and 25-28, which depend directly or indirectly from claim 1.

MPEP 1214.06 provides the following guidance in this situation:

(B) If the Board or court affirms a rejection against an independent claim and reverses all rejections against a claim dependent thereon, after expiration of the period for further appeal, the examiner should proceed in one of two ways:

(1) Convert the dependent claim into independent form by examiner's amendment, cancel all claims in which the rejection was affirmed, and issue the application; or

(2) Set a 1-month time limit in which appellant may rewrite the dependent claim(s) in independent form. Extensions of time under 37 CFR 1.136(a) will not be permitted. If no timely reply is received, the examiner will cancel all rejected and objected to claims and issue the application with the allowed claims only.

The MPEP goes on to states that the following form paragraph may be used where appropriate:

¶ 12.119.01 Examiner Sustained in Part - Requirement of Rewriting Dependent Claims (No Allowed Claim)

The Board of Patent Appeals and Interferences affirmed the rejection(s) against independent claim(s) [1], but reversed all rejections against claim(s) [2] dependent thereon. There are no allowed claims in the application. The independent claim(s) is/are cancelled by the examiner in accordance with MPEP § 1214.06. Applicant is given a ONE MONTH TIME PERIOD from the mailing date of this letter in which to present the dependent claim(s) in independent form to avoid ABANDONMENT of the application. NO EXTENSIONS OF TIME UNDER 37 CFR 1.136(a) WILL BE GRANTED. Prosecution is otherwise closed.

In this instance, applicants have filed an amendment which converts the dependent claim 3 into independent form however the proposed amendment does not cancel all claims in which the rejections were affirmed or otherwise overcome all outstanding issues. Specially, the Board affirmed the examiner's enablement rejection on method claims 9-12. Consideration of claims 9-12 as they would depend upon the proposed amendment to claim 1 would require further search and consideration. For this reason the amendment cannot be entered as filed, per MPEP 1214.06.

If applicant either submitted an amendment which in addition to moving the Markush group of claim 3 into Claim 1 also cancelled the method claims 9-12, that amendment would be entered because there being no other outstanding rejections, entry of the amendment would place claims in condition for allowance. MPEP 1214.07 states:

If the amendment obviously places an application in condition for allowance, regardless of whether the amendment is filed with an RCE, the primary examiner should recommend that the amendment be entered, and with the concurrence of the supervisory patent examiner, the amendment will be entered. Note MPEP § 1002.02(d).

It is noted in this instance, several claims stand withdrawn from appeal. MPEP 1215.03 states

A withdrawal of the appeal as to some of the claims on appeal operates as an authorization to cancel those claims from the application or reexamination proceeding and the appeal continues as to the remaining claims. The withdrawn claims will be canceled from an application by direction of the examiner at the time of the withdrawal of the appeal as to those claims. Examiner may use the following form paragraph to cancel the claims that are withdrawn from appeal at the time of the withdrawal:

¶ 12.121 Withdrawal of Appeal as to Some of the Claims on Appeal
The withdrawal of the appeal as to claims [1] operates as an authorization to cancel these claims from the application or reexamination proceeding. See MPEP § 1215.03. Accordingly, these claims are canceled.

Here, no rejections are pending upon claims 3, 6, 21 and 25-28. Because there are no outstanding rejections on these dependent claim, the claims, once written in independent format, would be in condition for allowance. If the examine believes that the claims as amended are not in condition for allowance, then in the next action, FP 12.187 should be included in the next action to reopen prosecution. This action would require a Supervisory Patent Examiner's signature.

"In view of the [1] filed on [2], PROSECUTION IS HEREBY REOPENED. [3] set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:"

DECISION

The petition is **DENIED** for the reasons set forth above.

The amendment filed 2 June 2009 has not been entered.

In response to this decision, applicants are invited to file an amendment which would both move the Markush group of claim 3 into claim 1 AND cancel rejected claims 9-12. Alternatively, Applicants may contact examiner by phone to give her permission to cancel claims 9-12 in an examiner's amendment- if the examiner obtains this permission from applicants, the amendment filed 2 June 2009 would then be entered.

Finally, if applicants wish to have claims 9-12 further examined in this application, applicants may include a request for continued examination along with the amendment.

Any request for reconsideration of this decision should be mailed with 2 (TWO) months of the mail date of this decision.

Should there be any questions about this decision, please contact Quality Assurance Specialist Julie Burke, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.

Michael Wityshyn
Acting Director, Technology Center 1600

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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	:	
PAATERO, Lauri et al.	:	
Application No. 11/015,099	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. **037145-0225**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Foly & Lardner LLP has been revoked by the assignee of the patent application on August 07, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BANNER & WITCOFF, LTD.**
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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OFFICE OF PETITIONS

FAY SHARPE LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND OH 44114

In re Application of	:	
Chan	:	
Application No. 11/015,103	:	DECISION ON PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. NUKZ 2 00632	:	

This is a decision on the petition, filed May 14, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 19, 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 was previously mailed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being forwarded to the Office of Patent Publication for further processing.

Alesia M. Brown
Pétitions Attorney
Office of Petitions

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MAY 09 2008

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of Nishiyama et al.	:	
Application No. 11/015,109	:	Decision on Petition
Filing Date: December 17, 2004	:	
Attorney Docket No. SP04-131	:	

This is a decision on the petition filed January 23, 2008, to revive the above-identified application.

The petition is **granted**.

Drawings were filed as part of the original application papers on December 17, 2004. An Office action mailed June 20, 2006, stated the drawings filed on December 17, 2004, were accepted.

A Notice of Allowability was mailed May 15, 2007. The Notice of Allowability stated the application would go abandoned unless corrected drawings were filed that included changes required by the Office action of "4/26/07." The Office did not mail an Office action on April 26, 2007. Other than the reference to an Office action mailed 4/26/07, the Notice of Allowability fails to provide any indication of the corrections that need to be made to the drawings.

The paper attached to the Notice of Allowability stated,

> New corrected drawings are required in this application because the application has been allowed. The corrected drawings are required in reply to the Office action, to avoid abandonment.

The Notice of Allowability set a period for reply of three (3) months. Petitioner did not reply to the Notice of Allowability. As a result, the application became abandoned July 27, 2007. A Notice of Abandonment was mailed August 27, 2007.

The instant petition requests revival of the application.

Petitioner has submitted the required petition fee.

Petitioner has submitted a reply to the Notice of Allowability in so far as petitioner has provided arguments establishing the Notice of Allowability should not have required corrected drawings.

The examiner has informed the undersigned the requirement for corrected drawings was erroneously included as part of the Notice of Allowability.

Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Data Management will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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2 Month Final: 3-4-08

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TNT

CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of Nishiyama et al.	:	
Application No. 11/015,109	:	Decision on Petition
Filing Date: December 17, 2004	:	
Attorney Docket No. SP04-131	:	

This is a decision on the petition filed September 11, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

Drawings were filed as part of the original application papers on December 17, 2004.

An Office action mailed June 20, 2006, stated the drawings filed on December 17, 2004, were accepted.

A Notice of Allowability was mailed May 15, 2007.

The Notice of Allowability stated the application would go abandoned unless corrected drawings were filed that included changes required by the Office action of "4/26/07." The Office did not mail an Office action on April 26, 2007. Other than the reference to an Office action mailed 4/26/07, the Notice of Allowability fails to provide any indication of the corrections that need to be made to the drawings.

The paper attached to the Notice of Allowability stated,

> New corrected drawings are required in this application because the application has been allowed. The corrected drawings are required in reply to the Office action, to avoid abandonment.

The Notice of Allowability set a period for reply of three (3) months.

Petitioner did not reply to the Notice of Allowability. As a result, the application became abandoned July 27, 2007.

A Notice of Abandonment was mailed August 27, 2007.

Discussion:

Petitioner has provided arguments to establish the Notice of Allowability should not have required corrected drawings. The examiner has informed the undersigned the requirement for corrected drawings was erroneously included as part of the Notice of Allowability.

Although petitioner has demonstrated the requirement for corrected drawings on the Notice of Allowability was erroneous, petitioner has not proven the application is not abandoned.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. The statute does not distinguish "correct" Office actions from "incorrect" Office actions. An Office action in the form of a Notice of Allowability was mailed May 15, 2007. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner 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 ($1,440 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 blank petition under 37 CFR 1.137(b) form m can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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CORNING INCORPORATED
SP-TI-3-1
CORNING, NY 14831

In re Application of Nishiyama et al.	:	
Application No. 11/015,109	:	Decision on Petition
Filing Date: December 17, 2004	:	
Attorney Docket No. SP04-131	:	

This is a decision on the petition filed September 11, 2007, under 37 CFR 1.181 to withdraw the holding of abandonment of the above-identified application.

The petition is **dismissed.**

Facts:

Drawings were filed as part of the original application papers on December 17, 2004.

An Office action mailed June 20, 2006, stated the drawings filed on December 17, 2004, were accepted.

A Notice of Allowability was mailed May 15, 2007.

The Notice of Allowability stated the application would go abandoned unless corrected drawings were filed that included changes required by the Office action of "4/26/07." The Office did not mail an Office action on April 26, 2007. Other than the reference to an Office action mailed 4/26/07, the Notice of Allowability fails to provide any indication of the corrections that need to be made to the drawings.

The paper attached to the Notice of Allowability stated,

> New corrected drawings are required in this application because the application has been allowed. The corrected drawings are required in reply to the Office action, to avoid abandonment.

The Notice of Allowability set a period for reply of three (3) months.

Petitioner did not reply to the Notice of Allowability. As a result, the application became abandoned July 27, 2007.

A Notice of Abandonment was mailed August 27, 2007.

Discussion:

Petitioner has provided arguments to establish the Notice of Allowability should not have required corrected drawings. The examiner has informed the undersigned the requirement for corrected drawings was erroneously included as part of the Notice of Allowability.

Although petitioner has demonstrated the requirement for corrected drawings on the Notice of Allowability was erroneous, petitioner has not proven the application is not abandoned.

35 U.S.C. 133 requires that if an action is mailed, and if an applicant fails to respond to such action within 6 months or within any shorter time period set by the Office, the application goes abandoned as a matter of law. The statute does not distinguish "correct" Office actions from "incorrect" Office actions. An Office action in the form of a Notice of Allowability was mailed May 15, 2007. The Notice provided applicants with three months to file a response. Applicant did not file a response to the Notice of Allowability within 3 months. Therefore, as a matter of law, the application is abandoned.

Abandonment is not based on the correctness, in whole or in part, of an Office action. For example, if an applicant fails to respond to a restriction requirement later determined to be untenable as drafted, the application is abandoned. If an Office action is mailed rejecting claims based on anticipation over a reference that was facially not available as prior art against the application, an applicant must still respond to the Office action in order to avoid abandonment.

Petitioner failed to respond to the Notice of Allowability. Such response could have taken the form of a written traversal stating the facts in the instant petition regarding the original drawings. Petitioner could have directly contacted the examiner and taken steps to have the examiner withdraw the requirement in writing prior to the expiration of the time period for response.

For the reasons above, the holding of abandonment will not be withdrawn.

Petitioner 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 ($1,440 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 blank petition under 37 CFR 1.137(b) form m can be found at: http://www.uspto.gov/web/forms/sb0064_fill.pdf.

Any request for reconsideration under 37 CFR 1.181 must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are NOT permitted.

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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FOLEY & LARDNER
P.O. BOX 80278
SAN DIEGO CA 92138-0278

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OFFICE OF PETITIONS

In re Application of
Kipps, et al.
Application No. 11/015,117
Filed: December 17, 2004
Attorney Docket No. 041673-2119
For: NOVEL EXPRESSION VECTORS CONTAINING ACCESSORY MOLECULE LIGAND GENES AND THEIR USE FOR IMMUNOMODULATION AND TREATMENT OF MALIGNANCIES AND AUTOIMMUNE DISEASE

DECISION DISMISSING PETITION

This is a decision on the petition, filed June 8, 2005, requesting that the above-identified application be accorded a filing date of December 17, 2004 with figures 5,6,9, 11, 16-20, and 25-27 as part of the original application papers. The petition will be treated under 37 CFR 1.182.

The petition under 37 CFR 1.182 is **DISMISSED**.

The application was filed on December 17, 2004. On April 8, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioners, *inter alia,* that figures 5,6,9, 11, 16-20, and 25-27 appeared to have been omitted.

In response to the Notice, petitioners timely filed the present petition. Petitioners request that the Office accord a December 17, 2004 filing date for figures 5,6,9, 11, 16-20, and 25-27 on the basis that the allegedly omitted figures were received in the Patent and Trademark Office (PTO) on December 17, 2004. The petition states that because the original transmittal letter referenced drawing figures 1-28C as being present on December 17, 2004 among the other application papers, that the Office should recognize the omitted drawings as filed on December 17, 2004.

The Office file is the official record of what was filed on December 17, 2004. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that the original transmittal letter references drawing figures 1-28C establishes at most an intention to file the figures.

The Office has established a practice of providing a receipt for papers filed in the Office to any applicant desiring a receipt. The practice, which was long ago established and is well publicized, requires that any paper for which a receipt is desired be filed in the Office with a self-addressed postcard identifying the paper. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the Office of all the items listed thereon on the date stamped thereon by the Office. See section 503, Manual Of Patent Examining Procedure (MPEP 503).

Petitioners have not submitted their date stamped itemized postcard receipt.

The petition under 37 CFR 1.53(e) is **DISMISSED**. Petitioners' deposit account will be charged the required $400.00 petition fee.

In the alternative, petitioners argue that the omitted drawings should be included because of their incorporation by reference from the parent application, as provided for in 37 CFR 1.57(a). This issue is for the examiner to determine. The Office of Petitions handles Rule 57(a) petitions only when the omitted material is essential subject matter – when the application is not entitled to a filing date without the material.

The application is being returned to the Office of Initial Patent Examination (OIPE) for further processing. Petitioners have not established that the omitted drawings were filed with the original application papers. The sheets of drawings containing figures 5,6,9, 11, 16-20, and 25-27 submitted with the instant petition will **not** be processed at this time. After the application's initial processing is finished, OIPE will forward the application to Technology Center G.A.U. 1653 where the examiner of record will consider applicants' 37 CFR 1.57(a) argument.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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CARRERE & DENEGRE, L.L.P.
5TH FLOOR
8555 UNITED PLAZA BLVD.
BATON ROUGE, LA 70809

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OFFICE OF PETITIONS

In re Application of	:	
Valeriy V. Kozmenko, et al.	:	
Application No. 11/015,127	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 15894/102669-00	:	

This is a decision on the petition, filed March 24, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704. No additional petition fee is required.

Petitioner states that the instant non-provisional application is the subject of an application filed in a foreign country and the U. S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country. However, petitioner has not provided the exact filing date of the foreign application. Before a proper determination on the merits of the petition can be decided, petitioner must supply the filing date of the foreign application.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: U.S. Patent and Trademark Office
Customer Service Window, Mail Stop PETITION
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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BATON ROUGE, LA 70809

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OFFICE OF PETITIONS

In re Application of	:	
Valeriy V. Kozmenko, et al.	:	
Application No. 11/015,127	:	DECISION ON PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 15894/102669-00	:	

This is a decision on the renewed petition, filed July 24, 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 16, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of May 17, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 3714 for examination in due course.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/015,127	12/17/2004	Valeriy V. Kozmenko	15894/102669-00

CONFIRMATION NO. 6115

Jones, Walker, Waechter, Poitevent,
Carrere & Denegre, L.L.P.
5th Floor
8555 United Plaza Blvd.
Baton Rouge, LA 70809

Date Mailed: 02/06/2007

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 05/17/2007.

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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Gregory W. Osterloth
Holland & Hart, LLP
P.O. Box 8749
Denver, CO 80201

Mail Date: 04/21/2010

Applicant	: Herbert L. Ko	: DECISION ON REQUEST FOR
Patent Number	: 7574185	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,132	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1269** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DEER PARK, IL 60010

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MAR 17 2009

OFFICE OF PETITIONS

In re Application of :
Patrick D. Jordan, et al. :
Application No. 11/015,133 :
Filed: December 17, 2004 :
Attorney Docket No. IS01646AIC :

ON PETITION

This is a decision in response to the petition, filed December 30, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed September 7, 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 December 8, 2007. A Notice of Abandonment was mailed on April 8, 2008. On December 30, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the amendment received December 30, 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. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Patrick D. Jordan	: DECISION ON REQUEST FOR
Patent Number	: 7593344	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1063** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Patrick D. Jordan	: DECISION ON REQUEST FOR
Patent Number	: 7613190	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1196** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Paul S. Weidlich
Chambliss, Bahner & Stophel, P.C.
Two Union Square
1000 Tallan Building
Chattanooga TN 37402

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OFFICE OF PETITIONS

In re Application of	:	
Wade Ledford	:	
Application No. 11/015,155	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 0835400/0301	:	

This is a decision on the petition filed in the above-identified application.

The petition is dismissed.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to revive an abandoned application for patent based on unavoidable delay or to accept an unavoidably delayed payment of a fee for issuing a patent. In this instance, the fee required by law is $255.

The petition in the above-identified application was <u>not</u> accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Service Window
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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-

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

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1000 Tallan Building
Chattanooga TN 37402

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OFFICE OF PETITIONS

In re Application of
Wade Ledford
Application No. 11/015,155
Filed: December 17, 2004

Attorney Docket: 0835400/0301

Title of Invention: Apparatus and Method for Securing a Pallet Jack

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(a) to revive the application filed on December 31, 2007. This petition is properly treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181 .

The petition to withdraw the holding of abandonment is **GRANTED**.

The petition under 37 CFR 1.137(a) is **Dismissed as Moot**.

This above-identified application became abandoned for failure to timely file a response to a final Office Action which was mailed on March 20, 2007. The final Office Action set a three (3) month shortened statutory period for reply. An amendment was filed on June 21, 2007. An advisory action mailed on July 10, 2007 that the amendment did not place the application in condition for allowance. A second amendment after final with a one month extension of time was filed on July 19, 2007. Accordingly, this application became abandoned on July 21, 2007. This decision precedes the mailing of a Notice of Abandonment. A petition filed under 37 CFR 1.137(a) was dismissed on December 20, 2007.

Petitioner asserts that a timely second amendment after final was filed on July 19, 2007. Petitioner states he did not become aware that the Office had not received the July 19, 2007 amendment until after a conversation with the examiner on November 15, 2007.

A review of the record shows that the amendment submitted on July 19, 2007 was inadvertently scanned into application no. 10/629,728. The amendment was copied into the above application on December 6, 2007.

In light of the location of the timely submission of the amendment, the holding of abandonment is withdrawn.

Petitioner should however note that the submission of the petition fee is a prerequisite for treatment of a petition filed under 37 CFR 1.137. Further the petition fee is not refundable. However, since this application is being treated under 37 CFR 1.181 and the first petition under 37 CFR 1.137(a) was not treated on the merits the petition fee will be refunded in this instance.

This application is being forwarded to Art Unit 3612 for further processing of the amendment.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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1701 NORTH STREET
ENDICOTT NY 13760

In re Application of :
Shultz, et al. :
Application No. 11/015,167 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No. END920040206US1 :

This is a decision on the petition under 37 CFR 1.137(a), filed April 24, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED**.

This application became abandoned for failure to file a timely response to the Notification of Non-Compliant Appeal Brief mailed August 28, 2007, which set a shortened period for reply of one month from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on September 29, 2007. A Notice of Abandonment was mailed April 17, 2008.

A grantable petition under 37 CFR 1.137(a)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(1); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer required by 37 CFR 1.137(c).

The instant petition lacks item (3).

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard.

"In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is

[1]As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference."[3]

"[T]he Commissioner's discretion cannot remain wholly uncontrolled, if the facts **clearly** demonstrate that the applicant's delay in prosecuting the application was unavoidable, and that the Commissioner's adverse determination lacked **any** basis in reason or common sense."[4]

"The court's review of a Commissioner's decision is 'limited, however, to a determination of whether the agency finding was arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law.'"[5]
"The scope of review under the arbitrary and capricious standard is narrow and a court is not to substitute its judgment for that of the agency."[6]

The standard

"[T]he question of whether an applicant's delay in prosecuting an application was unavoidable must be decided on a case-by-case basis, taking all of the facts and circumstances into account."[7]

The general question asked by the Office is: "Did petitioner act as a reasonable and prudent person in relation to his most important business?"[8] Nonawarness of a PTO rule will not constitute unavoidable delay.[9]

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[3]Rydeen v. Quigg, 748 F.Supp. 900, 904, 16 U.S.P.Q.2d (BNA) 1876 (D.D.C. 1990), aff'd without opinion (Rule 36), 937 F.2d 623 (Fed. Cir.1991) (citing Morganroth v. Quigg, 885 F.2d 843, 848, 12 U.S.P.Q.2d (BNA) 1125 (Fed. Cir. 1989); Ethicon, Inc. v. Quigg 849 F.2d 1422, 7 U.S.P.Q.2d (BNA 1152 (Fed. Cir. 1988) ("an agency' interpretation of a statute it administers is entitled to deference"); see also Chevron U.S.A. Inc. v. Natural Resources Defence Council, Inc., 467 U.S. 837, 844, 81 L. Ed. 694, 104 S. Ct. 2778 (1984) ("if the statute is silent or ambiguous with respect to the specific issue, the question for the court is whether the agency's answer is based on a permissible construction of the statute.")

[4]Commissariat A L'Energie Atomique et al. v. Watson, 274 F.2d 594, 597, 124 U.S.P.Q. (BNA) 126 (D.C. Cir. 1960) (emphasis added).

[5]Haines v. Quigg, 673 F. Supp. 314, 316, 5 U.S.P.Q.2d (BNA) 1130 (N.D. Ind. 1987) (citing Camp v. Pitts, 411 U.S. 138, 93 S. Ct.1241, 1244 (1973) (citing 5 U.S.C. §706 (2)(A)); Beerly v. Dept. of Treasury, 768 F.2d 942, 945 (7th Cir. 1985); Smith v. Mossinghoff, 217 U.S. App. D.C. 27, 671 F.2d 533, 538 (D.C. Cir.1982)).

[6]Ray v. Lehman, 55 F.3d 606, 608, 34 U.S.P.Q2d (BNA) 1786 (Fed. Cir. 1995) (citing Motor Vehicles Mfrs. Ass'n v. State Farm Mut. Auto. Ins. Co., 463 U.S. 29, 43, 77 L.Ed.2d 443, 103 S. Ct. 2856 (1983)).

[7]Id.

[8]See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

[9]See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 U.S.P.Q. (BNA) 977 (Fed. Cir. 1982) (citing Potter v. Dann, 201 U.S.P.Q. (BNA) 574 (D.D.C. 1978) for the proposition that counsel's nonawarness of PTO rules does not constitute "unavoidable" delay)). Although court decisions have only addressed the issue of lack of knowledge of an attorney, there is no reason to expect a different result due to lack of knowledge on the part of a pro se (one who prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a

Application of the standard to the current facts and circumstances

In the instant petition, petitioner maintains that the circumstances leading to the abandonment of the application meet the aforementioned unavoidable standard and, therefore, petitioner qualifies for relief under 37 CFR 1.137(a). In support thereof, petitioner asserts that the Notice of Non-Compliant Amendment was not received.

With regard to item (3) above, the aforementioned argument of petitioner in support of petitioner's belief that the above-cited application was unavoidably abandoned is not persuasive. The reasons petitioner's argument must necessarily fail are addressed below.

A successful petition under 37 CFR 1.137(a) requires that petitioner demonstrate that the entire delay—beginning from the due date for the reply to the filing of a grantable petition was unavoidable. The application became abandoned on September 29, 2007, yet the instant petition was not filed until April 24, 2008. Petitioner did not state when petitioner discovered that the application was abandoned and whether the petition to revive was filed promptly after said discovery. The renewed petition must establish that the entire delay in responding to the Notification of Non-Compliant Appeal Brief was unavoidable.

Alternatively, petitioner may revive the application based on unintentional abandonment under 37 CFR 1.137(b) (enclosed). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by the required reply, the required petition fee ($1,540.00 for a large entity and $770.00 for a verified small entity), and a statement that the **entire** delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

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specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

Telephone inquiries regarding this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT NY 13760

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Shultz, et al. :
Application No. 11/015,167 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No. END920040206US1 :

This is a decision on the renewed petition under 37 CFR 1.137(a) filed June 9, 2008.

The renewed petition is **GRANTED.**

This application became abandoned for failure to file a timely response to the Notification of Non-Compliant Appeal Brief mailed August 28, 2007, which set a shortened period for reply of one month from its mailing date. Extensions of time under 37 CFR 1.136(a) were available. No response was received within the allowable period and the application became abandoned on September 29, 2007. A Notice of Abandonment was mailed April 17, 2008. A petition under 37 CFR 1.137(a) was first filed on April 24, 2008, and dismissed by decision mailed May 23, 2008.

It is noted that petitioner indicates that no petition or fees should have been necessary because the Notice of Non-Compliant Appeal Brief was allegedly never mailed. Petitioner is advised that a petition to withdraw the holding of abandonment under 37 CFR 1.181 would have been the most appropriate course of action in such a case. See MPEP 711.03(c). The petition to withdraw the holding of abandonment has no fee and requires petitioner to simply make a statement that the petitioner's files were searched, but no Notice Non-Compliant Appeal Brief was found and supply a copy of the docket records establishing the same. Yet, petitioner elected to file a petition under 37 CFR 1.137(a). A petition under 37 CFR 1.137(a) can only be considered grantable if the petition fee accompanies it. If the petition fee were not paid, the petition under 37 CFR 1.137(a) would not have been treated on its merits and summarily dismissed. Petitioner had the option of filing a petition to withdraw the holding of abandonment, which has no fee. Petitioner, however, filed a petition under 37 CFR 1.137(a) which requires a petition fee and relief was granted under 37 CFR 1.137(a). The petition fee will not be refunded, accordingly.

It is noted that petition fee was paid twice. The second petition fee paid will be refunded in due course.

The file is now being forwarded to Technology Center 2100, GAU 2186 for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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MAR 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Gary Verhoef, Frederick H. Lucas :
and Duane A. Harthoorn : DECISION REFUSING STATUS
Application No. 11/015,173 : UNDER 37 CFR 1.47(a)
Filed: December 17, 2004 :
For: MILL BOX FOR MATERIALS GRINDER

This is in response to the "Petition Under 37 CFR 1.47(a)," filed December 17, 2004.

The petition is dismissed.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on December 17, 2004 without a fully executed oath or declaration and naming Gary Verhoef, Frederick H. Lucas and Duane A. Harthoorn as joint inventors.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (1), as set forth above.

As to item (1), applicant appears to demonstrate that the non-signing inventor was only presented with the declaration. Unless the non-signing inventor was presented with a copy of the application papers (specification, claims and drawings), the non-signing inventor could not attest that he has "reviewed and understands the application papers" and therefore could not sign the declaration which he was given. Accordingly, applicant failed to show or provide proof that the inventor has refused to sign the declaration. See MPEP 409.03(d). Petitioner should show that a copy of the application papers was presented to the non-signing inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

It is noted that the above-identified application is a divisional of 10/299,981, however, a copy of any decision regarding the petition under 37 CFR 1.47(a) submitted in 10/299,981 has <u>not</u> been submitted. *See* MPEP 602.05(a).

The $200.00 petition fee will be charged to deposit account no. 13-2725.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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APR 1 8 2005

OFFICE OF PETITIONS

In re Application of
Gary Verhoef, Frederick H. Lucas
and Duane A. Harthoorn
Application No. 11/015,173
Filed: December 17, 2004
For: MILL BOX FOR MATERIALS
GRINDER

: DECISION GRANTING PETITION
: UNDER 37 CFR 1.47(a)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(a)," filed March 24, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor, Frederick H. Lucas, has refused to join in the filing of the above-identified application.[1]

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The file is being forwarded to Technology Center 3700 for examination *in due course*.

Telephone inquiries regarding this decision should be directed to the undersigned at (571)272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

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[1] It is noted that the petition refers to the non-signing inventor as "Fredrick H. Lucas, while the declaration lists the non-signing inventor as "Frederick H. Lucas." The spelling listed in the declaration is controlling. If the spelling in the declaration is incorrect, petitioners should notify the Office. MPEP 605.04(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

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FREDERICK H. LUCAS
23877 220TH AVE.
SIGOURNEY, IA 52591

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APR 18 2

OFFICE OF PETITIONS

In re Application of
Gary Verhoef, Frederick H. Lucas and Duane A. Harthoorn
Application No. 11/015,173
Filed: December 17, 2004
For: MILL BOX FOR MATERIALS GRINDER

Dear FREDERICK H. LUCAS:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571)272-3228. Requests for information regarding your application should be directed to the File Information Unit at (703)308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703)308-9726 or 1(800)972-6382 (outside the Washington D.C. area).

Edward J. Tannouse
Petitions Attorney
Office of Petitions
United States Patent and Trademark Office

MERCHANT & GOULD PC
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MINNEAPOLIS, MN 55402-0903

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JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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JUL 27 2005

OFFICE OF PETITIONS

In re Application of	:	
Eigen et al.	:	
Application No. 11/015,179	:	ON PETITION
Filed: 20 December, 2004	:	
Atty Docket No. P60752US1	:	

This is a decision on the petition filed on 21 June, 2005, requesting that the above-identified application be accorded a filing date of 20 December, 2004, with Figure 3 described in the specification as a part of the original disclosure.

The petition is granted.

The application was filed on 20 December, 2004.

Accordingly, on 24 May, 2005, Initial Patent Examination Division mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that the application had been accorded a filing date of 20 December, 2004, but that Figure 3 described in the specification appeared to have been omitted.

In response, on 21 June, 2005, the present petition and a copy of one (1) sheet of drawings containing Figure 3 described in the specification were filed. Petitioners argue that the sheet of drawings containing Figure 3 was filed with the other application papers on 20 December, 2004, but was subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt was supplied with the present petition. The postcard receipt shows an "Office-date" stamp of 20 December, 2004, and identifies the application by the first named inventor's last name, and attorney docket number, and acknowledges receipt of, *inter alia*, 5 sheets of drawings.

Petitioners requests that the application, including one (1) sheet of drawings containing Figure 3 described in the specification, be accorded a filing date of 20 December, 2004.

A review of the record reveals that no sheet of drawings containing Figure 3 described in the specification has been located among the four (4) sheets of drawings deposited with the application papers received on 20 December, 2004. However, the evidence is convincing that the application papers deposited on 20 December, 2004, included five (5) sheets of drawings, one of which included Figure 3 described in the specification, which was subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 3 described in the specification, is entitled to a filing date of 20 December, 2004.

The "Notice" mailed on 24 May, 2005, is vacated.

In view of the above, the petition is granted. The $400.00 in petition fee paid with the present petition is unnecessary. Petitioners may request a refund by writing to the Office of Finance, ATTN: Refund Section. A copy of this decision should accompany petitioners' request.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 3 supplied on 21 June, 2005, as a part of the original disclosure.

The application is being referred to Initial Patent Examination Division for further processing with a filing date of 20 December, 2004, using the application papers filed on that date, and the one (1) sheet of drawings containing Figure 3 supplied with the present petition.

Telephone inquires should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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MAR 13 2008

OFFICE OF PETITIONS

In re Application of	:	
Kenta Ninose et al.	:	
Application No. 11/015,194	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 16869R-137300US	:	

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 application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 6, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 7, 2006. The Notice of Abandonment was mailed June 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 an election; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

The application file is being referred to Technology Center AU 2189 for appropriate action on the concurrently filed election.

Liana Walsh
Petitions Examiner
Office of Petitions

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LORNA L. TANNER
FOLEY & LARDNER LLP
1530 PAGE MILL ROAD
PALO ALTO, CA 94304-1125

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JAN 13 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Wang et al. :
Application No. 11/015,198 :
Filed: December 16, 2004 :
Attorney Docket No. 310473-3109 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 18, 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. Brett T. Freeman 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. Freeman 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. Freeman, 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 Restriction Requirement, mailed April 28, 2008 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 30, 2008. A Notice of Abandonment was mailed December 15, 2008. On December 18, 2008, the present petition was filed.

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 the group of claims to be examined, (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 matter is being referred to Technology Center 1617 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRETT T. FREEMAN
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

Mail Date: 06/03/2010

Applicant	: Bing Wang	: DECISION ON REQUEST FOR
Patent Number	: 7629375	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/015,198	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1203** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

BATTELLE MEMORIAL INSTITUTE
505 KING AVENUE
COLUMBUS, OH 43201

In re Application of	:	
Siu Man L. Cowan	:	
Application No. 11/015,201	:	NOTICE
Filed: December 17, 2004	:	
Attorney Docket No. 35056-506-CON	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P. O. BOX 1450
ALEXANDRIA, VA 22313-1450

Date	: 6/24/2008
Patent No.	: 7,279,465 B2
Inventor(s)	: Hamprecht et al.
Issue Date	: October 9, 2007
Title	: **USE OF AMPHIPHILIC NUCLEOSIDE PHOSPHONOFORMIC ACID DERIVATIVES FOR THE TREATMENT OF VIRAL INFECTIOUS DISEASES**
Doc./File No.	: **584212000301**

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting, the alleged error in your request, a petition under C.F.R. 1.182 is required to correct the alleged errors in incorrect inventor's name or order of inventor's names, since inventors' names are printed solely in accordance with the typed/printed names (not the signatures) on the Declaration or Oath, and since non-initialed and non-dated changes are not taken into consideration. Therefore, no correction is in order here under the provisions of Rule 1.322 or 1.323 (required fee currently $100), unless a petition is granted. In view of the foregoing, your request is hereby denied.

Any petition under 37 CFR 1.182 (required fee currently $130) 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
P.O. Box 1450
Alexandria, VA 22313-1450

By Fax: (703) 308-6916
Attn.: Office of Petitions

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE* (703) 308-9390 x122
Mary F. Diggs, *Supervisor* (703) 308-9390 x125
Decisions & Certificates of Correction Branch

MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Anil Kumar Sharma	: DECISION ON REQUEST FOR
Patent Number	: 7580766	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,217	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **800** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

SABIC - LEXAN
SABIC Innovative Plastics - IP Legal
ONE PLASTICS AVE.
PITTSFIELD, MA 01201-3697

Mail Date: 04/20/2010

Applicant	: Brett D. Ermi	: DECISION ON REQUEST FOR
Patent Number	: 7649032	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,274	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **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.

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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MCKENNA LONG & ALDRIDGE LLP
1900 K STREET, NW
WASHINGTON, DC 20006

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NOV 17 2008

In re Application of	:	
Won Jong Kwon, et al.	:	
Application No.: 11/015,282	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No.: 29137.007.00	:	

This is a decision on the petition, filed November 14, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 28, 2008, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1796 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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090707

DATE : July 07, 2009

TO SPE OF : ART UNIT 2823

SUBJECT : Request for Certificate of Correction on Patent No.: 7,528,077

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:

While there is a DISQ approved paper in the IFW, there is no paperwork indicating that a request was made. Additionally, this DISQ was input into the file before the first action and this has no parent case and the child is due to a restriction requirement. Consequently, there appears to be an error in the paperwork.

/MATTHEW SMITH/
Supervisory Patent Examiner.Art Unit 2823

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

JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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MAR 2 4 2009

OFFICE OF PETITIONS

In re Application of
RAO, Venigalla B.
Application No. 11/015,294
Filed: December 17, 2004
Attorney Docket No. **CAUN-0021-UT1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Steven Kelber on behalf of all attorneys of record who are associated with customer No. 22506. Steven Kelber has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/03/09

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11015301 Patent No.: 7477911

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

x **Approved**	**All** changes apply.
☐ **Approved in Part**	Specify below which changes **do not** apply.
☐ **Denied**	State the reasons for denial below.

Comments: _____

ok to enter

/Matthew Anderson/ 2618

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/015,308	12/16/2004	1621	1230	HAHN26.005C1	1	22	2

CONFIRMATION NO. 7000

CORRECTED FILING RECEIPT

OC000000015964658

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Date Mailed: 05/06/2005

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)

Luis Pablo Fidel Dancuart Kohler, Vaalpark, SOUTH AFRICA;
Gert Hendrik Du Plessis, Secunda, SOUTH AFRICA;
Francois Jacobus Du Toit, Sasolburg, SOUTH AFRICA;
Edward Ludovicus Koper, Secunda, SOUTH AFRICA;
Trevor David Phillips, Vanderbijlpark, SOUTH AFRICA;
Janette Van Der Walt, Vaalpark, SOUTH AFRICA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of PCT/ZA03/00079 06/18/2003
which claims benefit of 60/389,653 06/18/2002

Foreign Applications

SOUTH AFRICA 2002/4846 06/18/2002

If Required, Foreign Filing License Granted: 02/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/015,308

Projected Publication Date: 06/30/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method of purifying fischer-tropsch derived water

Preliminary Class

518

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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www.uspto.gov

SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 06/18/2010

Applicant	: Stephen Dirk Pacetti	: DECISION ON REQUEST FOR
Patent Number	: 7632307	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/015,313	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Date: 03/25/09

Patent No. : 7485118 B2
Ser. No. : 11/015,333
Inventor(s) : BLANKENSTEIN, GERT
Issued : 02/03/09
Title : **MICROSTRUCTURED ARRANGEMENT FOR THE BUBBLE-FREE FILLING WITH A LIQUID OF AT LEAST ONE SYSTEM FOR DRAINING OFF LIQUIDS, APPARATUS HAVING SUCH AN ARRANGEMENT AND FILLING METHOD**
Docket No. : **A-9362 .RNFMP/ CAT**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Lamonte M. Newsome

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(703) 305-8309 or (703) 308-9390 #112

Hoffman, Wasson & Gitler, P.C.
Suite 522
Crystal Center 2
2461 South Clark Street
Arlington VA 22202

LMN

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HOFFMAN, WASSON & GITLER, P.C.
SUITE 522
CRYSTAL CENTER 2
2461 SOUTH CLARK STREET
ARLINGTON, VA 22202

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JUN 1 0 2009
OFFICE OF PETITIONS

In re Patent No. 7,485,118	:	
Issue Date: February 3, 2009	:	
Application No. 11/015,333	:	ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. A-9362 .RNFMP/CAT	:	

This is a decision on the petition filed April 9, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

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DALINA LAW GROUP, P.C.
7910 IVANHOE AVE. #325
LA JOLLA CA 92037

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OFFICE OF PETITIONS

In re Application of

DOOLITTLE, Robert W.
Application No. 11/015,340
Filed: December 17, 2004
Attorney Docket No. **PGT-P0001**

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 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Joseph Mayo on behalf of all attorneys of record who are associated with customer No. 36067. 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 Bob Dolittle at the address indicated below.

There is an outstanding Office action mailed June 11, 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: **ROBERT W. DOOLITTLE**
10815 RANCHO BERNARDO RD.
SUITE 220
SAN DIEGO, CA 92127

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

CANTOR COLBURN LLP - SABIC (LEXAN/CYCOLOY)
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Yogendrasinh Chauhan	: DECISION ON REQUEST FOR
Patent Number	: 7635778	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **721** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

Date Mailed : March 20, 2007

Patent No. :7,177,207
Inventor :Wendler, Eric J.
Patent Issued :February 13, 2007
Docket No. : M-15648 US

Re: Request for Certificate of Correction

The Certificates of Correction Branch received your request to replace informal drawings for formal drawings.

Your request has been denied. The examiner clearly stated in his first Office Action Summary, April 21, 2006, that, "The examiner has accepted the drawing filed with the application as formal drawing."

The file does not contain a Notice of Draftsperson's Patent Drawing Review requesting corrected or formal drawings. In addition, formal drawings must be entered prior to paying the issue fee.

Any inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9380 ext. 123

MacPherson Kwok Chen & Heid LLP
2033 Gateway Place, Ste 400
San Jose, CA 95110

CBN/arg

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : June 3, 2007

Patent No. :7,177,207
Inventor :Wendler, Eric J.
Patent Issued :February 13, 2007
Docket No. :M-15648 US

Re: Request for Certificate of Correction

The Certificates of Correction Branch received your request to substitute formal drawings for informal drawings.

Again, applicants's for correction request has been denied. The examiner clearly stated in his first Office Action Summary, April 21, 2006, that, "The examiner has accepted the drawing filed with the application as formal drawing."

The file does not contain a Notice of Draftsperson's Patent Drawing Review requesting corrected or formal drawings. In addition, formal drawings must be entered prior to paying the issue fee.

In view of the forgoing, applicants request is hereby denied. Any inquiries concerning this communication should be directed to Ms. A. Green at (703) 308-9390, ext. 123.

Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308- 9350 ext. 123

MacPherson, Kwok, Chen & Heid LLP
2033 Gateway Place, Ste 400
San Nose, CA 95110

CBN/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 100207

DATE : 09/19/07

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/015369** Patent No.: **7177207**

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Angela Green
Certificates of Correction Branch
703.308.9380 ext. 123

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☒ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments: Informalities corrected in the drawings.
Approved. EJW

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

10/20/07

SPE

2824
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/7/2010

TO SPE OF : ART UNIT 2876 Lee Michael (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/015384 Patent No.: 7427024

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

Certificates of Correction Branch
703-756-1571 _____

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: Drawings submitted with payment of issue fee should have been entered

SPE

2876
Art Unit

PTOL-306 (REV. 7/03)

U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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JUL 29 2005

OFFICE OF PETITIONS

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA, VA 22320

In re Application of	:	
Uchiyama, et al.	:	
Filed: December 20, 2004	:	ON PETITION
Application No. 11/015,420	:	
Atty. Dkt. No.: 122201	:	

This decision is in response to the "PETITION UNDER 37 C.F.R. § 1.53(e)(2)," filed April 13, 2005, requesting that the above-identified application be accorded a filing date of December 2004, withdrawal of the Notice of Omitted Items, and acknowledgement of receipt of pages 15-29 of the specification.

The application was filed December 20, 2004. The Notice of Omitted Item(s) in a Nonprovisional Application mailed February 17, 2005 indicated, *inter alia*, that the application had been accorded a filing date but that pages 15-29 of the specification appeared to have been omitted from the application as filed.

In response, petitioners argue that the application as deposited included pages 15-29 of the specification. Petitioners have included as proof of mailing and proof of receipt of pages 15-29 of the specification a return postcard date stamped by the Office on December 20, 2004. A copy of pages 15-29 of the specification purportedly filed with the application on December 20, 2004 was also supplied.

The original pages 15-29 of the specification submitted with the application papers have not been located. However, in view of the evidence presented, the Notice mailed February 17, 2005 is hereby WITHDRAWN and the petition to accord the application a filing date of December 20, 2004 is GRANTED.

Since the original pages 15-29 of the specification cannot be located in the Office, the copy supplied with the instant petition will be used for examination purposes.

No petition fee is due in connection with this matter. A refund of the previously submitted petition fee has been requested on petitioners' behalf of the Finance Office, Refund Section.

This application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2004 with pages 15-29 as part of the disclosure.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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Bell, Boyd & Lloyd LLC
P.O. Box 1135
Chicago, IL 60690-1135

Mail Date: 04/21/2010

Applicant	: Neil D. Falconer	: DECISION ON REQUEST FOR
Patent Number	: 7594851	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,441	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **991** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SOCAL IP LAW GROUP LLP
310 N. WESTLAKE BLVD. STE 120
WESTLAKE VILLAGE, CA 91362

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Takeaki Kato :
Application No. 11/015,456 :
Filed: December 16, 2004 :
Attorney Docket No. TS00-P04318US :

This is a decision on the petition under 37 CFR 1.137(b), filed January 11, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 16, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 17, 2007.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2166 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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P.O. Box 1450
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Toby H. Kusmer
McDERMOTT, WILL & EMERY
28 State Street
Boston, MA 02109

Mail Date: 04/21/2010

Applicant	: William R. Clark	: DECISION ON REQUEST FOR
Patent Number	: 7628861	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,465	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **279** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes, NJ 07417-1880

Mail Date: 04/21/2010

Applicant	: Pierre Bierre	: DECISION ON REQUEST FOR
Patent Number	: 7604999	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,467	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1225** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 RIES
318 PARKER PLACE
OSWEGO IL 60543

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JAN 22 2007

OFFICE OF PETITIONS

In re Application of
Burnidge
Application No. 11/015,478
Filed: December 17, 2004
Title of Invention: ILLUMINATED HOLIDAY TREAT CARRIER

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed December 11, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a proper response to a Notice to File Corrected Application Papers which was mailed on February 23, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. A reply was submitted on April 22, 2005. A Notice of Incomplete Reply was mailed on May 9, 2005. Accordingly, this application became abandoned on April 24, 2005. A Notice of Abandonment was mailed on September 6, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

The address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition. However, the Office will mail all future correspondence solely to the address of record.

This application 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

cc: Michael J Ries
1747A Vermont Drive
Elk Grove Village, IL 60007

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TC 3600

DALLAS OFFICE OF FULBRIGHT & JAWORSKI L.L.P
2200 Ross Avenue
Suite 2800
Dallas, TX 75201-2784

In re application of	:	**DECISION ON PETITION**
David H. Tannenbaum	:	**TO MAKE SPECIAL**
Application No. 11/015,479	:	**(APPLICANT'S AGE)**
Filed: December 17, 2004	:	
For: METHOD FOR PROVIDING PROPERTY RIGHT BASED GUARANTEES		

This is a decision on the petition submitted on December 17, 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. Tannenbaum 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: 02/07/05

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2200 ROSS AVENUE
SUITE 2800
DALLAS TX 75201-2784

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OCT 25 2006
OFFICE OF PETITIONS

In re Application of	:	
David H. Tannenbaum	:	
Application No. 11/015,479	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 05708/PO13US/08008819	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 29, 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 copy of the applicant's Driver's License showing proof he is 66 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 3692 action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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PATRICK REILLY
BOX 7218
SANTA CRUS, CA 95061-7218

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OFFICE OF PETITIONS

In re Application of	:	
William E. HARRISON, et al	:	
Application No. 11/015, 480	:	ON PETITION
Filed: December 18, 2004	:	
Attorney Docket No. CBS-001-US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 14, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 9, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 10, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) 1.

With respect to item 1: A review of the record shows that the petition in the above-identified application was accompanied by a payment of $750 for the petition fee. As of September 30, 2007 a new fee schedule was posted and new fees should have been applied to any petition fee filed after the date listed above. The instant petition lacks a complete petition fee payment and an additional $20 is due to complete the required petition fee. No consideration on the merits can be given until the required fee deficiency is remitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

Thurman Page
Petitions Examiner
Office of Petitions

RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11015480 Total Records Found: 8

Start Date: Any Date End Date: Any Date

2453

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
04/15/2008	00000091	1	~~1999~~	$750.00	04/14/2008	CK
05/05/2005	00000063	1	2051	$65.00	05/04/2005	CK
05/05/2005	00000064	1	2251	$60.00	05/04/2005	CK
12/23/2004	00000001	1	2011	$150.00	12/18/2004	CK
12/23/2004	00000002	1	2111	$250.00	12/18/2004	CK
12/23/2004	00000003	1	2311	$100.00	12/18/2004	CK
12/23/2004	00000004	1	2201	$100.00	12/18/2004	CK
12/23/2004	00000005	1	2202	$25.00	12/18/2004	CK

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PATRICK REILLY
BOX 7218
SANTA CRUS 95061-7218

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OFFICE OF PETITIONS

In re Application of	:	
William E. HARRISON, et al	:	
Application No. 11/015,480	:	DECISION ON PETITION
Filed: December 18, 2004	:	
Docket No. CBS-001-US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 9, 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 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 2166 for appropriate action by the Examiner in the normal course of business on the reply received July 21, 2008.

Thurman Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Toshihide Tsubata	: DECISION ON REQUEST FOR
Patent Number	: 7575836	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,484	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1189** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAIL STATION 2346
1310 ELECTRONICS DRIVE
CARROLLTON TX 75006

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FEB 13 2007

OFFICE OF PETITIONS

In re Application of :
Bernard Bourgin :
Application No. 11/015,513 : ON PETITION
Filed: December 17, 2002 :
Attorney Docket No. 04-LJ-070 :

This is a decision on the petition, filed February 9, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 9, 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]

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

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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).

The examiner of Technology Center AU 2819 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
HOGAN & HARTSON LLP
ONE TABOR CENTER
1200 17TH STREET, SUITE 1500
DENVER, CO 80202

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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GENERAL ELECTRIC COMPANY (PCPI)
C/O FLETCHER YODER
P. O. BOX 692289
HOUSTON, TX 77269-2289

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OFFICE OF PETITIONS

In re Application of	:	
Robert W. DELMERICO, et *al.*	:	
Application No. 11/015,515	:	DECISION GRANTING PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **155758-1/YOD (GERD:0372)**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 30, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 26, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2836 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

CONTINENTAL AUTOMOTIVE SYSTEMS
TEMIC AUTOMOTIVE OF NORTH AMERICA, INC.
21440 WEST LAKE COOK ROAD
PATENTS AND LICENSES, 7TH FLOOR
DEER PARK, IL 60010

In re Application of
Patrick D. Jordan, et al.
Application No. 11/015,529
Filed: December 17, 2004
Attorney Docket No. IS01657AIC

ON PETITION

This is a decision in response to the petition, filed February 27, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 5, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on May 6, 2008. On February 27, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on March 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 amendment; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2416 for appropriate action by the Examiner in the normal course of business on the amendment received February 27, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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OFFICE OF PETITIONS

AT&T LEGAL DEPARTMENT
ATTN: PATENT DOCKETING
ROOM 2A-207
ONE AT&T WAY
BEDMINSTER NJ 07921

In re Application of	:	
Edward Michael Silver et al	:	
Application No. 11/015,544	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 60027.0402USC1	:	
(BS#00333C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 15, 2010, 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/terminal disclaimer/fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed January 11, 2008, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2626 for appropriate action by the Examiner in the normal course of business on the reply received March 15, 2010.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/015,549	12/17/2004	Masahiko Shibuya	TS8076 US	9551

23632 7590 04/14/2008
SHELL OIL COMPANY
P O BOX 2463
HOUSTON, TX 772522463

EXAMINER
NGUYEN, HUY TRAM

ART UNIT	PAPER NUMBER
1797	

MAIL DATE	DELIVERY MODE
04/14/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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wk

4-14-08

In re application of
Masahiko Shibuya
Serial No. 11/015,549
Filed: December 17, 2004
For: Kerosene Composition

DECISION ON PETITION

This is a decision on the petition filed on February 27, 2008. The petition requests to reset the period for Reply from the office action mailed on August 2, 2007. Currently, the application is abandoned. A declaration has been submitted that explains that applicant became aware of an outstanding office action on February 19, 2008 when the examiner called.

DECISION

The instant request is accepted as a timely petition under 37 C.F.R. 1.181 (no fee), and is evaluated under the procedures regarding an acceptable showing of non-receipt of an office action, TMOG 1156 O.G. 53, November 16, 1993, (see also MPEP 711.03(c) - NEW PROCEDURE TMOG 1170 O.G. 114). A review of the petitioner's evidence indicates that the request has merit. The evidence presented is sufficient to establish that the applicant or any authorized representative of the applicant did not receive the office action mailed August 2, 2007

The abandonment will be withdrawn and the office action of August 2, 2007 will be remailed and restarting of the period of response from the remail date thereof.

The Petition is **GRANTED**.

Jacqueline M. Stone

Jacqueline Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Paula D. Morris
SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUL 06 2009

OFFICE OF PETITIONS

In re Application of	:	
Eliezer et al.	:	
Application No. 11/015,562	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. TI-38227	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal and the Appeal Brief, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2629 for further processing of both the Notice of Appeal and the Appeal Brief.

Liana Walsh
Petitions Examiner
Office of Petitions

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Cargill Incorporated
Law/24
15407 McGinty Road West
Wayzata, MN 55391

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In re Application of Brian Brazeau et al. Application No. 11/015,563 Filed: December 17, 2004 Attorney Docket No. 12799-008001/CGL04/0137	: : : : :	DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 04, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, June 27, 2007 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 28, 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 response to the Office action, (2) the petition fee of $1540 and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1050 extension of time fee submitted with the petition on February 04,2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to 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 1656 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

CC: Fish & Richardson P.C.
60 South Sixth Street
Suite 3300
Minneapolis, MN 55402

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SHEPPARD, MULLIN, RICHTER & HAMPTON LLP
990 MARSH ROAD
MENLO PARK CA 94025

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OFFICE OF PETITIONS

In re Application of	:	
Martin, Anthony G.	:	
Application No. 11/015,583	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. CLAR 1040-1	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 3, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), (2) the petition fee, and (3) a proper statement of unintentional delay.

On January 30, 2009, the Power of Attorney to the petitioner was revoked. Accordingly, while a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed solely to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 2162 for processing of the RCE under 37 CFR 1.114. filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: HAYNES BEFFEL & WOLFELD LLP
P.O. BOX 366
637 MAIN STREET
HALF MOON BAY, CA 94019

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Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

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OFFICE OF PETITIONS

In re Application of	:
Kevin McCallion, et. al.	:
Application No. 11/015,591	: DECISION ON PETITION
Filed: December 17, 2004	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. TAYE-23 RR	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 17, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

This application is being forwarded to Technology Center Art Unit 2874, for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Any inquiries concerning this decision may be directed to Andrea Smith at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/015,591	12/17/2004	2874	915	TAYE-23 RR	4	22	2

CONFIRMATION NO. 6101

CORRECTED FILING RECEIPT

OC000000019481833

Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

Date Mailed: 07/05/2006

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)

Kevin McCallion, Charlestown, MA;
Parviz Tayebati, Weston, MA;

Power of Attorney:

Nicholas Pandiscio--17293
Scott Foster--20570
Mark Pandiscio--30883
James Sheridan--43114

Domestic Priority data as claimed by applicant

This application is a CIP of 10/289,944 11/06/2002 PAT 6,963,685
and is a CIP of 10/308,522 12/03/2002
and is a CIP of 10/680,607 10/06/2003 PAT 7,054,538
and claims benefit of 60/530,479 12/17/2003
and claims benefit of 60/548,230 02/27/2004
and claims benefit of 60/569,769 05/10/2004
and claims benefit of 60/629,741 11/19/2004
and is a CIP of 10/933,081 09/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 02/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/015,591

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Multi-ring resonator implementation of optical spectrum reshaper for chirp managed laser technology

Preliminary Class

385

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Walter T. Kim
Suite 1300
2030 Main Street
Irvine, CA 92614

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JUN 0 9 2008

In re Application of	:	
Mike Insang Kim	:	
Application No. 11/015,597	:	DECISION ON PETITION
Filed: December 16, 2004	:	TO WITHDRAW
Attorney Docket No. MK.P001	:	FROM RECORD
	:	

This is a decision on the request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 28, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. 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 Walter T. Kim on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

Applicant is reminded that there is no attorney of record at this time.

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: Mike I. Kim
84 Tierra Plano
Rancho Santa Margarita, CA 92688

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/015,597	12/16/2004	Mike Insang Kim	MK.P001

CONFIRMATION NO. 6096

POWER OF ATTORNEY NOTICE

Walter T. Kim
2030 Main Street
Suite 1300
Irvine, CA 92614

OC000000030377428

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/28/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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Continental Automotives Systems, Inc.
Patents & Licenses
21440 WEST LAKE COOK ROAD
Floor 7
DEER PARK, IL 60010

Mail Date: 04/21/2010

Applicant	: Patrick D. Jordan	: DECISION ON REQUEST FOR
Patent Number	: 7599377	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,606	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1237** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Rolf Krane	: DECISION ON REQUEST FOR
Patent Number	: 7574456	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,613	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **330** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

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JUN 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,584,193
Issued: September 1, 2009
Application No. 11/015,616
Filed: December 16, 2004
Attorney Docket No. **09700.0105-00**

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT-POST-GRANT filed on September 28, 2009, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 339 days to 484 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 three hundred seventy-five (375) 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 17, 2007 and ends on May 8, 2008, the day before the RCE was filed, the B delay is 144 (not 145) days. See 35 U.S.C. 154(b)(1)(B)(i). Further, patentee fails to account for the filing of a Notice of Appeal on January 22, 2008, and the subsequent filing of a RCE on May 8, 2008. The 108 days of the over three year period consumed by appellate review, beginning on January 22, 2008 and ending on May 8, 2008, are not included in the B delay. *See* 35 U.S.C. § 154(b)(1)(B)(ii). As such, the patent term adjustment is 376 (399 + 144 - 108 - 60) days, not 484 days.

The Office acknowledges the authorization to charge the $200.00 fee set forth in 37 CFR 1.18(e) to deposit account no. 06-0916.

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 **three hundred seventy-five (375)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,584,193 B2

DATED : September 1, 2009

INVENTOR(S) : Rolf Krane

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 (339) days

Delete the phrase "by 339 days" and insert – by 375 days--

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FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Hans-Peter Cejka	: DECISION ON REQUEST FOR
Patent Number	: 7571219	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,618	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1265** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PANITCH SCHWARZE BELISARIO & NADEL LLP
ONE COMMERCE SQUARE
2005 MARKET STREET, SUITE 2200
PHILADELPHIA, PA 19103

Mail Date: 04/20/2010

Applicant	: Heiko Specht	: DECISION ON REQUEST FOR
Patent Number	: 7653439	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,629	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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VOLPE AND KOENIG, P.C.
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

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DEC 2 4 2008

In re Application of	:	
Tapio Rauma, et al.	:	
Application No. 11/015,630	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. BER-PT004	:	

This is a decision on the petition, filed October 2, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED.**

The application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal or within one (1) month of the Notice of Panel Decision, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). This decision precedes the mailing of a Notice of Abandonment. On October 2, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the Appeal Brief and requisite fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay

The application is being referred to Technology Center AU 2166.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to the prosecution of the application should be referred to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/015,631	12/17/2004	1614	1130	NZK-145	2	20	3

CONFIRMATION NO. 4101

UPDATED FILING RECEIPT

OC000000015323526

023290
HOLLANDER LAW FIRM, P.L.C.
SUITE 305
10300 EATON PLACE
FAIRFAX, VA 22030

Date Mailed: 03/07/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Aftab A. Ansari, Atlanta, GA;
M. Eric Gershwin, Davis, CA;

Power of Attorney:

Barry Hollander–28566
Warren Zitlau–39085

Domestic Priority data as claimed by applicant

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 US11/015,631

Projected Publication Date: 06/22/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method for treatment of HIV infection

Preliminary Class

514

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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2941 FAIRVIEW PARK DRIVE, SUITE 200
FALLS CHURCH VA 22042-2924

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FEB 17 2006

OFFICE OF PETITIONS

In re Application of	:	
Reddy et al.	:	
Application No. 11/015,638	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 05149.0009.NPUS06	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the applicant, including his date-of-birth. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2674 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/30/2010

Applicant	: Patrick Fuertes	: DECISION ON REQUEST FOR
Patent Number	: 7612198	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/015,640	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **566** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 300
MCLEAN VA 22102

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OFFICE OF PETITIONS

In re Application of	:	
Hertfelt et al.	:	DECISION GRANTED
Application No. 11/015,642	:	
Filed: December 20, 2004	:	
Attorney Docket No.: 449122024801	:	

This is a decision on the "Response to Notice to File Missing Parts of Application" filed April 4, 2005, requesting to accept omitted item figure 2 as part of the original disclosure.

The application was filed on December 20, 2004. However, on February 3, 2005, the Office of Initial Patent Examination (OIPE) mailed a Notice stating that the application had been accorded a filing date of December 20, 2004 but figure 2 as described in the specification appeared to have been omitted.

In response, the present petition was filed wherein Petitioner contends four sheets of drawings including figure 2 were filed on December 20, 2004. In support, the petition is accompanied by a copy of applicants' return postcard which lists "Drawings 4 sheets". The petition is further accompanied by a copy of figure 2.

Applicants' postcard receipt is prima facie evidence that four sheets of drawings including figure 2 as described in the specification were received on December 20, 2004, but figure 2 is not present in the file. Therefore, it is concluded that figure 2 was received on December 20, 2004, as shown in counsel's file, and later misplaced in the office.

The petition is Granted to the extent it applies to the omitted figure. A petition fee has not been charged.

Since figure 2 as described in the specification cannot be located in the Office, figure 2 supplied on April 4, 2005, will be used for processing and examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of December 20, 2004, using the drawings submitted on December 20, 2004 and substitute figure 2 supplied with the petition on April 4, 2005.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant

Petition Attorney

Office of Petitions

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Christopher Bieniarz	: DECISION ON REQUEST FOR
Patent Number	: 7642064	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,646	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1211** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CSA LLP
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BLDG. 4, SUITE 201
AUSTIN TX 78759

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of
Keller et al.
Application No. 11/015,673
Filed: December 17, 2004
Attorney Docket No. OIC0125US

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed October 4, 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 15, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 2173 for examination in due course.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/015,673	12/17/2004	Carl P. Keller	OIC0125US

CONFIRMATION NO. 7180

60975
CSA LLP
4807 SPICEWOOD SPRINGS RD.
BLDG. 4, SUITE 201
AUSTIN, TX 78759

Date Mailed: 02/05/2007

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 05/17/2007.

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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www.uspto.gov

INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Ian Frederick Godwin	: DECISION ON REQUEST FOR
Patent Number	: 7581116	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,682	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1285** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Martin Holmes
1166 E. Grand Ave
Arroyo Grande CA 93420

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NOV 28 2007
OFFICE OF PETITIONS

In re Application of	:	
Martin Holmes	:	
Application No.: 11/015697	:	DECISION ON
Filing or 371(c) Date: 12/16/2004	:	PETITION
Title of Invention:	:	
VEHICLE TRACTION ASSIST DEVICE	:	

This is a decision in response to the correspondence filed June 4, 2007, in response to receipt of a Notice of Abandonment. The correspondence is properly treated as a petition to withdraw the holding of abandonment. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed October 27, 2006. The Office action set a three (3) month period for reply, and provided for extensions of time under 37 CFR 1.136(a). No response having been received, the application became abandoned on January 28, 2007. A Notice of Abandonment was mailed May 23, 2007.

Applicant's Assertion

Applicant files the instant petition and asserts that a timely reply to the Office action, including an amendment, was filed on November 28, 2006. In support of this assertion applicant files a copy of the reply only. The copy of the reply does not reveal that the reply included a certificate of mailing (37 CFR 1.8), or a return-receipt postcard (MPEP 503).

A review of Office records reveals that the Office received a specification, claims, Abstract and drawings on November 28, 2006.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The application will be referred to Technology Center Art Unit 3617 for processing of the reply, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 10/17/06

TO SPE OF : ART UNIT 2189

SUBJECT : Request for Certificate of Correction on Patent No.: 7093954 B2 11/015731

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

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-305-8309

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

Comments:

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE 2800 **Art Unit**

OIPE IAP88
SEP 21 2006
PATENT & TRADEMARK OFFICE

C of C

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re:	U.S. Patent No. 7,093,954
First Named Inventor:	Sharrah et al
Atty Docket:	0096-P03339US1
Issued:	August 22, 2006
Appl. No.:	11/015,731
Filed:	December 17, 2004
For:	FLASHLIGHT HAVING LED ASSEMBLY AND METHOD FOR PRODUCING SAME

Certificate of Mailing Under 37 CFR §1.8(a)

I hereby certify that this correspondence is being deposited to the United States Postal Service as first class mail in an envelope addressed to COMMISSIONER OF PATENTS, P.O. Box 1450, Alexandria, VA 22313-1450.

9-18-06
Date of Certificate

Christine Edinger
Christine Edinger

REQUEST UNDER 37 CFR 1.322 FOR CERTIFICATE OF CORRECTION OF PATENT OFFICES' MISTAKE

It is respectfully requested that a Certificate of Correction be issued correcting the Patent Office printing error(s) as follows:

Replace drawings with the attached formal drawings.
(Formal Drawings filed June 21, 2006)

Certificate
SEP 25 2006
of Correction

It is respectfully requested that a Certificate of Correction be issued to correct the above-noted error(s).

Respectfully submitted,

DANN, DORFMAN, HERRELL & SKILLMAN
A Professional Corporation
Attorneys for Applicant

By
Stephen H. Eland
PTO Reg. No. 41,010

Telephone: (215) 563-4100
Facsimile: (215) 563-4044

SEP 26 2006

PRINTER'S TRIM LINE

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,093,954
DATED : August 22, 2006
FIRST NAMED INVENTOR: Sharrah et al

It is certified that errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Replace drawings with the attached formal drawings.

MAILING ADDRESS OF SENDER:
Stephen H. Eland
DANN, DORFMAN, HERRELL AND SKILLMAN, P.C.
1601 Market Street - Suite 2400
Philadelphia, PA 19103

PATENT NO. 7,093,954

SEP 26 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Wybenga, Sturm and Ireland
Application No. 11/015,737
Filed: December 17, 2004
Title: APPARATUS AND METHOD FOR SEARCHING TRIE TREES USING MASKS WITH NON-SYMBOL BOUNDARIES AND FLOODING DEFAULT ROUTES IN A MASSIVELY PARALLEL ROUTER

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on April 4, 2005 (certificate of mailing dated March 31, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga and Patrick W. Ireland, the non-signing inventors, have refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known addresses of the non-signing inventors. Maria E. Wybenga and Monna Ireland signed the return receipts. Copies of the letters to the non-signing inventors and the return receipts accompany the petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The Office finance records indicate that applicants submitted a $130.00 fee for the present petition. Effective December 8, 2004, the fee for a petition under 37 CFR 1.47(a) increased to $200.00. Therefore, Deposit Account No. 50-0208 will be charged the difference of $70.00

The matter is being referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Patrick W. Ireland
11060 Chisum Road
Sanger TX 76266

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OFFICE OF PETITIONS

In re Application of
Wybenga, Sturm and Ireland
Application No. 11/015,737
Filed: December 17, 2004
Title: APPARATUS AND METHOD FOR SEARCHING TRIE TREES USING MASKS WITH NON-SYMBOL BOUNDARIES AND FLOODING DEFAULT ROUTES IN A MASSIVELY PARALLEL ROUTER

LETTER

Dear Mr. Ireland:

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

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of Wybenga, Sturm and Wang Application No. 11/015,738 Filed: December 17, 2004 Title: APPARATUS AND METHOD FOR SHARING VARIABLES AND RESOURCES IN A MULTIPROCESSOR ROUTING NODE	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on April 4, 2005 (certificate of mailing dated March 31, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga and Yingwei Wang, the non-signing inventors, have refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known addresses of the non-signing inventors. Maria E. Wybenga and Yingwei Wang signed the return receipts. Copies of the letters to the non-signing inventors and the return receipts accompany the petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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Yingwei Wang
7575 Frankford Road, No. 2417
Dallas, TX 75252

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Wybenga, Sturm and Wang	:	LETTER
Application No. 11/015,738	:	
Filed: December 17, 2004	:	
Title: APPARATUS AND METHOD FOR SHARING	:	
VARIABLES AND RESOURCES IN A	:	
MULTIPROCESSOR ROUTING NODE	:	

Dear Mr. Wang:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

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OFFICE OF PETITIONS

In re Application of Wybenga, Sturm and Lang Application No. 11/015,739 Filed: December 17, 2004 Title: APPARATUS AND METHOD FOR INTER-PROCESSOR COMMUNICATIONS IN A MULTIPROCESSOR ROUTING NODE	DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on April 4, 2005 (certificate of mailing dated March 31, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga and Mark Lang, the non-signing inventors, have refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known addresses of the non-signing inventors. Maria E. Wybenga and Mark Lang signed the return receipts. Copies of the letters to the non-signing inventors and the return receipts accompany the petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 2681 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Mail Date: 05/19/2010

Applicant	: Jack C. Wybenga	: DECISION ON REQUEST FOR
Patent Number	: 7620042	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/015,739	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1369** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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AUG 20 2009

OFFICE OF PETITIONS

NOVAK DRUCE & QUIGG LLP - PERGO
1300 EYE STREET NW
1000 WEST TOWER
WASHINGTON DC 20005

In re Application of	:	
Tate, et al.	:	
Application No. 11/015,741	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. 8688.039.US0000	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed May 28, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file an Appeal Brief. Applicants filed a Notice of Appeal on July 28, 2008, together with a Pre-Appeal Brief Request for Review. Subsequently, the Office mailed a Notice of Panel Decision from Pre-Appeal Brief Review on April 28, 2009. This Notice notified applicants that the appeal was proceeding to the Board of Patent Appeals and Interferences, and set the time period for filing an Appeal Brief to one month from the mailing date of the Notice, or the balance of the two month time period running from the Notice of Appeal, whichever is greater. Extensions of time under 37 CFR 1.136(a) were still available. On May 12, 2009, the Office mailed a Notice of Abandonment.

It is obvious that the Notice of Abandonment was mailed in error. As set forth above, the Notice of Panel Decision from Pre-Appeal Brief Review, mailed on April 28, 2009, set an **extendable** period for reply of one month. As such, applicants had until October 28, 2009, to file an Appeal Brief, provided it is filed with a five month extension of time.

In view thereof, **the holding of abandonment is withdrawn**.

Subsequent to filing the instant petition, applicants filed an Appeal Brief on June 29, 2009, made timely by obtaining a one month extension of time and by the fact that June 28, 2009 fell on a Sunday. See 37 CFR 1.7(a).

The matter is being forwarded to Group Art Unit 3635 for consideration of the Appeal Brief, filed June 29, 2009.

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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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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FEB 01 2010

In re Application of	:	
Lee, et al.	:	
Application No. 11/015,743	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. T3716-9205US01	:	

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed June 30, 2009, to revive the above-identified application.

The petition is **DISMISSED.**

Any renewed petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply to a restriction requirement, mailed October 31, 2008, which set a shortened statutory period for reply of one month or thirty days, whichever was longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and no timely reply was filed. Accordingly, the application became abandoned on December 1, 2008. A Notice of Abandonment was mailed on June 9, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioners argue 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. Petitioners argue that because the Office failed to enter a Request for Withdrawal as Attorney or Agent and Change of Correspondence Address, filed October 12, 2007, that the October 31, 2008 restriction requirement was addressed to an out of date address and was not received by the practitioner listed in the October 12, 2007 Request for Withdrawal as Attorney or Agent and Change of Correspondence Address, who only recently became aware of the mailing of the restriction requirement. Therefore, petitioners assert the delay in responding to the October 31, 2008 restriction requirement was unavoidable.

An attorney of record filed a request to withdraw and a change of correspondence address on October 12, 2007. The withdrawal was never approved because it was a request for withdrawal of attorneys associated with Customer Number 000181. Per MPEP 401: The appointment of practitioners associated with a Customer Number is optional, in that any applicant may continue to individually name those practitioners to represent the applicant in a patent application, so long as fewer than ten patent practitioners are named. See 37 CFR 1.32(c)(3). A review of the declaration/power of attorney filed on June 6, 2005 reveals that 6 individuals were empowered and a customer number was utilized as the correspondence address of record. On October 12, 2007, an attorney of record attempted to withdraw on behalf of himself and the attorneys associated with Customer Number 000181. As a customer number was not utilized to identify empowered practitioners, the request to withdraw and change of correspondence address was not approved.

The October 31, 2008 restriction requirement was properly mailed to the correspondence address of record and was never withdrawn/vacated.

Even if the withdrawal had been acceptable, petitioners are reminded that a withdrawal is effective when approved, rather than when received.

Unfortunately, it appears that petitioners' appointed attorneys did not reply to the October 31, 2008 restriction requirement.

Because petitioners were represented by a registered practitioner, the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representative of the applicant, and the applicant is bound by the consequences of those actions or inactions. *Link v. Wabash*, 370 U.S. 626, 633-34 (1962). If the attorney made any errors, petitioners are bound by such errors.[1]

An attorney must act reasonably and prudently.

If [the] attorney somehow breach[es] his duty of care to plaintiff, then plaintiff may have certain other remedies available to him against his attorney. He cannot, however, ask the court to overlook [the attorney's] action or inaction with regard to the patent application. He hired the [attorney] to represent him. [The attorney's] actions must be imputed to him.[2]

The petition under 37 CFR 1.137(a) is dismissed.

The undersigned suggests that petitioners file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

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[1] See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

[2] Haines v. Quigg, 673 F. Supp. 314, 317, 5 U.S.P.Q. 2d (BNA) 1130 (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962) ("Petitioner voluntarily chose his attorney as his representative in the action and he cannot now avoid the consequences of the acts or omissions of this freely selected agent ... Each party is deemed bound by the acts of his lawyer-agent and is considered to have 'notice of all facts, notice of which can be charged upon the attorney.'" (emphasis added); Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983) ("Courts hesitate to punish a client for its lawyers gross negligence, especially when the lawyer affirmatively misled the client" but "if the client freely chooses counsel, it should be bound to counsel's actions."); see also Wei v. State of Hawaii, 763 F. 2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983)). See also Smith v. Diamond, 209 U.S.P.Q. (BNA) 1091 (D. D.C. 1981).

statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

The June 30, 2009 revocation and power of attorney is not acceptable because it appears to have been filed by only one inventor. The typed name on the bottom of each of the two pages is Henry Lee. There are two joint inventors – Henry J. Lee and Zehngqing You.

A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence pertaining to this application will be directed to the address of record until a proper revocation/power of attorney/change of correspondence address **or** a proper withdrawal/change of correspondence address is filed.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DENNIS CLARKE
7422 OLD MAPLE SQUARE
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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OFFICE OF PETITIONS

In re Application of
Lee, et al.
Application No. 11/015,743
Filed: December 20, 2004
Attorney Docket No. T3716-9205US01

: DECISION ON PETITION

This is a decision on the renewed petition under the unavoidable standard of 37 CFR 1.137(a), filed February 26, 2010, to revive the above-identified application.

The petition is **DISMISSED.**

Any renewed petition must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply to a restriction requirement, mailed October 31, 2008, which set a shortened statutory period for reply of one month or thirty days, whichever was longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained and no timely reply was filed. Accordingly, the application became abandoned on December 1, 2008. A Notice of Abandonment was mailed on June 9, 2009.

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d).

The instant petition lacks item (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Petitioners argue 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. Petitioners argue that they took "due care to adhere to the requirement for prompt notification of the change of address" and "that a timely notification of the change of address was filed in the application concerned in a manner reasonably calculated to call attention to the fact that it was a notification of change of address." (petition p.3). However, the form petitioners submitted to make their requested change of correspondence address was one utilized to withdraw as attorney simultaneously. The form is viewed as a whole. The Office does not enter half of this form. To do so would direct correspondence pertaining to this application to a non-empowered individual while failing to direct correspondence to empowered individuals. The change of correspondence address in this form is entered only when the Office approves the withdrawal.

The October 12, 2007 Request for Withdrawal as Attorney or Agent and Change of Correspondence Address was not entered because although an attorney of record filed the October 12, 2007 request, it was a request for withdrawal of attorneys associated with Customer Number 000181. As a customer number was not utilized to identify empowered practitioners, the request to withdraw and change of correspondence address was not approved. MPEP 401.

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay. See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v. Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

The October 31, 2008 restriction requirement was properly mailed to the correspondence address of record and was never withdrawn/vacated.

Petitioners' appointed attorneys did not reply to the October 31, 2008 restriction requirement.

Because petitioners were represented by a registered practitioner, the Office must rely on the actions or inactions of the duly authorized and voluntarily chosen representative of the applicant, and the applicant is bound by the consequences of those actions or inactions. *Link v. Wabash*, 370 U.S. 626, 633-34 (1962). If the attorney made any errors, petitioners are bound by such errors.[1]

The petition under 37 CFR 1.137(a) is dismissed.

The undersigned suggests that petitioners file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b).

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioners intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A courtesy copy of this decision will be mailed to the address listed on the petition. All future correspondence pertaining to this application will be directed to the address of record until a proper revocation/power of attorney/change of correspondence address **or** a proper withdrawal/change of correspondence address is filed.

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

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[1] See California Med. Products v. Technol Med. Products, 921 F. Supp. 1219, 1259 (D. Del. 1995) (citing Smith v. Diamond, 209 U.S.P.Q. 1091, 1093 (D.D.C. 1981) (citing Link v. Walbash Railroad Co., 370 U.S. 626, 8 L. Ed. 2d 734, 82 S. Ct. 1386 (1962))).

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By facsimile: **(571) 273-8300**
Attn: Office of Petitions

By internet: EFS-Web
www.uspto.gov/ebc/efs_help.html
(for help using EFS-Web call the
Patent Electronic Business Center
at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

CC: DENNIS CLARKE
7422 OLD MAPLE SQUARE
MCLEAN VA 22102

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 0 3 2005

OFFICE OF PETITIONS

In re Application of :
Wybenga, Sturm and Ireland :
Application No. 11/015,750 :
Filed: December 17, 2004 :
Title: APPARATUS AND METHOD USING :
VECTOR TABLE INDIRECTION TO MAINTAIN :
FORWARDING TABLES IN A ROUTER :

DECISION ACCORDING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on April 14, 2005 (certificate of mailing dated Monday, April 11, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga and Patrick W. Ireland, the non-signing inventors, have refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known addresses of the non-signing inventors. Maria E. Wybenga and Monna Ireland signed the return receipts. Copies of the letters to the non-signing inventors and the return receipts accompany the petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Jack C. Wybenga
2129 Stone Creek
Plano TX 75075

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of	:	
Wybenga, Sturm and Ireland	:	LETTER
Application No. 11/015,750	:	
Filed: December 17, 2004	:	
Title: APPARATUS AND METHOD USING	:	
VECTOR TABLE INDIRECTION TO MAINTAIN	:	
FORWARDING TABLES IN A ROUTER	:	

Dear Mr. Wybenga:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patrick W. Ireland
11060 Chisum Road
Sanger TX 76266

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JUN 03 2005

LETTER OFFICE OF PETITIONS

In re Application of :
Wybenga, Sturm and Ireland :
Application No. 11/015,750 :
Filed: December 17, 2004 :
Title: APPARATUS AND METHOD USING :
VECTOR TABLE INDIRECTION TO MAINTAIN :
FORWARDING TABLES IN A ROUTER :

Dear Mr. Ireland:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

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OFFICE OF PETITIONS

In re Application of
Wybenga, Sturm and Samudra
Application No. 11/015,751
Filed: December 17, 2004
Title: APPARATUS AND METHOD FOR USING AN ERROR CORRECTING CODE TO ACHIEVE DATA COMPRESSION IN A DATA COMMUNICATION NETWORK

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed on April 14, 2005 (certificate of mailing dated Monday, April 11, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga, the non-signing inventor, has refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known address of the non-signing inventor. Maria E. Wybenga signed the return receipts. Copies of the letter to the non-signing inventor and the return receipt accompany the petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 2133 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Jack C. Wybenga
2129 Stone Creek
Plano TX 75075

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JUN 03 2005

OFFICE OF PETITIONS

In re Application of Wybenga, Sturm and Ireland Application No. 11/015,751 Filed: December 17, 2004 Title: APPARATUS AND METHOD FOR USING AN ERROR CORRECTING CODE TO ACHIEVE DATA COMPRESSION IN A DATA COMMUNICATION NETWORK	:	LETTER

Dear Mr. Wybenga:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

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PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN VA 22102

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In re Application of	:	
Theodorus Marinus Modderman	:	
Application No. 11/015,766	:	DECISION GRANTING PETITION
Filed: December 20, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 081468-0314117	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 10, 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 26, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries regarding this decision should be directed to undersigned 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Neal, Gerber, & Eisenberg
Suite 2200
2 North LaSalle Street
Chicago, IL 60602

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OFFICE OF PETITIONS

In re Application of	:	
Karen S. McDowell	:	
Application No. 11/015,768	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. McDow.01US1	:	

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 **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed February 2, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [Emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (almost 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on April 3, 2005. That party, in turn must explain what effort(s) was made to further reply to the Notice and, further, why no response 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 Brian R. Rayve was employed or otherwise engaged in proceedings of this application prior to abandonment, an explanation is required as to why this application became abandoned while it was under his control and what efforts was made by Mr. Rayve to further reply and with whom this matter was discussed outside of his office. Copies of any correspondence relating to the filing, or to not filing, a further reply to the outstanding Office action are required from the responsible person(s), and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Brian R. Rayve's office, 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 (almost 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Brian R. Rayve's office and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Neal, Gerber, & Eisenberg
Suite 2200
2 North LaSalle Street
Chicago, IL 60602

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MAR 2 5 2009

OFFICE OF PETITIONS

In re Application of	:	
Karen S. McDowell	:	
Application No. 11/015,768	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. McDow.01US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 17, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed February 2, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

Former attorney, Brian Rayve notes that the Notice of Abandonment was never received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See Withdrawing the Holding of Abandonment When Office Actions Are Not Received; Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993). Also why weren't there status checks or updates made to the USPTO regarding this application after the filing in 2004?

Petitioner asserts that docketing error was the cause of delay in acting to prevent the application from becoming abandoned. A delay resulting from an error (e.g., a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unintentional" delay, provided it is shown that: (1) the error was the cause of the delay at issue; (2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance; (3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care. See MPEP 711.03(c)(III)(C)(2).

An adequate showing requires statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts, as they know them. Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledger, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed in this instance to provide adequate notice that a reply was due. Petitioner must also supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The Office requests further information from applicant Karen McDowell. Were there any status checks made to attorney Brian Rayve and what were the dates.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

Carl Friedman
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

Neal, Gerber, & Eisenberg
Suite 1700
2 North LaSalle Street
Chicago, IL 60602

In re Application of	:	
Karen S. McDowell	:	
Application No. 11/015,768	:	DECISION ON PETITION
Filed: December 20, 2004	:	
Attorney Docket No. McDow.01US1	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed June 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Non-Provisional Application (Notice), mailed February 2, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 3, 2005. A Notice of Abandonment was mailed on October 5, 2005.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an oath and declaration, with a $65 surcharge fee, $75 basic filing fee, $255 search fee, $450 excessive claim fee, and $105 examination fee, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly the oath and declaration and fees are accepted as being unintentionally delayed.

Telephone inquiries should be directed to the Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Patent Application Processing for appropriate action in the normal course of business on the reply received January 25, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

Applicant	: Koichi Miyachi	: DECISION ON REQUEST FOR
Patent Number	: 7639332	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/20/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1240** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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DUANE MORRIS LLP
Suite 700
1667 K Street, N.W.
Washington DC 20006

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OFFICE OF PETITIONS

In re Application of	:	
Kennedy et al.	:	
Application Number: 11/015788	:	
Filing or 371(c) Date: 12/20/2004	:	ON PETITION
Attorney Docket Number: GRA26 022	:	

This is a decision on the Petition forWithdrawal of a Terminal Disclaimer Under 37 C.F.R. § 1.182, filed November 13, 2007.

The Petition is **granted**.

Applicant files the instant petition and requests withdrawal of the terminal disclaimer ("TD"), filed May 23, 2007. Applicant asserts that the TD was filed in error.

As the Examiner has agreed, the petition is granted.

The application is being referred to Technology Center Art Unit 2617 for withdrawal of the Terminal Disclaimer, filed May 23, 2007, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Robert A. Seldon
18th Floor
10940 Wilshire Blvd.
Los Angeles, CA 90024-3952

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JUN 16 2006
OFFICE OF PETITIONS

In re Application of	:	
Altman et al.	:	
Application No. 11/015,814	:	
Filed: December 16, 2004	:	DECISION ON PETITION
Atty Docket No.:	:	
THERM/01	:	

This is a decision on the Petition to Revive the Application based upon unintentional abandonment, filed May 4, 2006.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due ("Notice"), mailed December 13, 2005. The Notice set a non-extendable statutory period for reply of three (3) months. Accordingly, the application became abandoned March 14, 2006. A Notice of Abandonment was mailed April 26, 2006.

With the instant petition Applicant has submitted the issue fee.

This application is being forwarded to Publishing Division for processing into a patent.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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LAW OFFICE OF DONALD L. WENSKAY
P.O. BOX 7206
RANCO SANTA FE CA 92067

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OFFICE OF PETITIONS

In re Application of	:	
Antonakopoulos et al.	:	
Application No. 11/015823	:	DECISION DISMISSING PETITION
Filed: 12/17/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CH920020001US1	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed on July 24, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to the prior-filed international 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 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 where there is a question whether the delay was unintentional.

The 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 or international 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 or international application. An example of a proper benefit claim is: "This application is a continuation of Application No. PCT/IB2003/002542, filed June 13, 2003." A benefit claim that merely states: "This application claims priority under 35 USC 365(c) to co-pending PCT patent application PCT/IB2003/002542, filed on June 13, 2003," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Also, the status of each international parent application (if it is patented or abandoned) should also be indicated, following the filing date of the parent international application. *See* MPEP Section 201.11, Reference to Prior Nonprovisional Applications. The amendment fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable.

Additionally, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet or a substitute 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Anthony Knight
Supervisor
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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LAW OFFICE OF DONALD L. WENSKAY
P.O. BOX 7206
RANCO SANTA FE CA 92067

MAILED

JUL 07 2009

OFFICE OF PETITIONS

In re Application of	:	
Antonakopoulos et al.	:	
Application No. 11/015823	:	DECISION ON PETITION
Filed: 12/17/2004	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. CH920020001US1	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed on May 11, 2009, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/IB2003/002542, filed on June 13, 2003, as set forth in the accompanying amendment.

The petition is **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 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 Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2627 for 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/015,823	12/17/2004	2627	1330	CH920020001US1	16	4

CONFIRMATION NO. 3818

CORRECTED FILING RECEIPT

71034
LAW OFFICE OF DONALD L. WENSKAY
P.O. Box 7206
Ranco Santa Fe, CA 92067

OC000000036624676

Date Mailed: 07/07/2009

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)

Theodore Antonakopoulos, Patras, GREECE;
Evangelos S. Eleftheriou, Zurich, SWITZERLAND;
Haris Pozidis, Gattikon, SWITZERLAND;

Power of Attorney: The patent practitioners associated with Customer Number 71034

Domestic Priority data as claimed by applicant

This application is a CON of PCT/IB2003/002542 06/13/2003

Foreign Applications

EUROPEAN PATENT OFFICE (EPO) 02405541.0 06/27/2002

Request to Retrieve - This application either claims priority to one or more applications filed in an intellectual property Office that participates in the Priority Document Exchange (PDX) program or contains a proper **Request to Retrieve Electronic Priority Application(s)** (PTO/SB/38 or its equivalent). Consequently, the USPTO will attempt to electronically retrieve these priority documents.

If Required, Foreign Filing License Granted: 01/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/015,823**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Data overwriting in probe-based data storage devices

Preliminary Class

369

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

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The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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INTERNATIONAL BUSINESS MACHINES CORPORATION
INTELLECTUAL PROPERTY LAW
650 HARRY ROAD
SAN JOSE, CA 95120

Mail Date: 04/20/2010

Applicant	: Theodore Antonakopoulos	: DECISION ON REQUEST FOR
Patent Number	: 7646693	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,823	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1325** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

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JAN 07 2008

OFFICE OF PETITIONS

In re Application of	:	
Dieckmann, Gunther H.	:	
Application No. 11/015,832	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. T-6263	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 1795 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

JOSETTA I. JONES
6001 BOLLINGER CANYON ROAD
SAN RAMON, CA 94583

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MICHAEL BEST & FRIEDRICH LLP
TWO PRUDENTIAL PLAZA
180 NORTH STETSON AVENUE, SUITE 2000
CHICAGO IL 60601

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JUN 1 1 2008

OFFICE OF PETITIONS

In re Application of	:	
Gordon et al.	:	
Application No. 11/015,834	:	DECISION ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 210915-9083	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2833 for processing of the Request for Continued Examination under 37 CFR 1.114 filed previously on October 22, 2007.

Liana Walsh
Petitions Examiner
Office of Petitions

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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
11/015,848	12/17/2004	2167	1800	160004XX/YOD (GEMS:0279)	19	19	7

CONFIRMATION NO. 5491

CORRECTED FILING RECEIPT

OC000000016760347

Patrick S. Yoder
FLETCHER YODER
P.O. Box 692289
Houston, TX 77269-2289

Date Mailed: 08/11/2005

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 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)

Gopal B. Avinash, New Berlin, WI;
Allison Leigh Weiner, Milwaukee, WI;

Assignment For Published Patent Application

General Electric Company

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/015,848

Projected Publication Date: 06/22/2006

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for search, analysis and display of structured data

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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CARELLA, BYRNE, BAIN, GILFILLAN, CECCHI, STEWART & OLSTEIN
5 BECKER FARM ROAD
ROSELAND, NJ 07068

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JUL 21 2008

OFFICE OF PETITIONS

In re Application of	:	
MESEROL, Peter et al.	:	
Application No. 11/015,860	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO WITHDRAW
Attorney Docket No. **570567-4**	:	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 July 10, 2008.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by William Square on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the third named inventor Jerry B. Slaven at the address indicated below.

There is an outstanding Office action mailed March 04, 2008, that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **JERRY B. SLAVEN**
122 NEW STREET
NEW HOPE, PA 18938

cc: **GOODWIN PROCTER LLP**
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK, CA 94025-1105

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Paper No.

Floyd L. Howard
5010 N.W. 19th St.
Oklahoma City OK 73127

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JAN 18 2007

OFFICE OF PETITIONS

In re Application of	:	
Floyd Howard	:	
Application No. 11/015,862	:	DECISION ON
Filed: December 20, 2004	:	PETITION
Attorney Docket No.	:	
F. Howard - D. Howard	:	

This is a decision on the "Request for reinstatement of abandonment of patent application" filed November 20, 2006, which is properly treated as a petition under § 1.181 to withdraw the holding of abandonment.

The above-identified application became abandoned for failure to file a timely and proper reply to the non-final Office action mailed March 22, 2006. This Notice set a three month shortened statutory period for reply, with extensions of time obtainable under 37 CFR §1.136(a). No reply having been received and no extensions obtained, the above-identified application became abandoned effective June 23, 2006. A courtesy Notice of Abandonment was mailed on November 3, 2006.

In response, applicant filed the instant petition, asserting that the Office action was not received at the correspondence address of record. Applicant points to the indication in Office records that the Office action was returned to the USPTO as undeliverable.

A review of the application file reveals an irregularity in the mailing of the Office action mailed March 22, 2006. Even though the Office action was addressed to the correspondence address of record, the mailing was returned to the Office as undeliverable

as addressed. In addition, the petition includes a statement from the applicant that the Office communication was not received. Applicant does not attest to a search of the file jacket indicating that the Office action was not received or provide docket records. Nonetheless, given the irregularity in the mailing, it is concluded that petitioner has made an adequate showing of non-receipt.

In view thereof, the notice of abandonment mailed November 3, 2006 is hereby **VACATED**, and the holding of abandonment is hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

Technology Center AU 3632 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical support staff to withdraw the holding of abandonment and for re-mailing of the non-final Office action mailed March 22, 2006 and for restarting of the period for reply.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

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MAR 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Beverly PACKARD, et al	:	
Application No. 11/015,864	:	DECISION ON PETITION
Filed: December 14, 2004	:	TO WITHDRAW
Attorney Docket No. 300-948601US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 13, 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 Jonathan Alan Quine on behalf of all attorneys of record who are associated with Customer No. 22798.

All attorneys/agents of record associated with Customer Number 22798 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will continue to be directed to the address indicated below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed February 13, 2008 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: BEYER WEAVER LLP
500 12TH STREET, SUITE 200
OAKLAND, CA 94607

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/015,864	12/15/2004	Beverly Packard	300-948601US

CONFIRMATION NO. 5496

POWER OF ATTORNEY NOTICE

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

OC000000029063379

Date Mailed: 03/25/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/13/2007.

- 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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Caven & Aghevli
c/o Intellevate, LLC
P.O. Box 52050
Minneapolis, MN 55402

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NOV 20 2008

In re Application of	:	
Ravi Rajwar et al.	:	
Application No. 11/015,874	:	DECISION ON PETITION
Filed: December 16, 2004	:	
Attorney Docket No. P20453	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, November 01, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 02, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Office action, (2) the petition fee of $1620, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to 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 2181 for appropriate action by the Examiner in the normal course of business on the reply received

David Bucci
Petitions Examiner
Office of Petitions

cc: Ramin Aghevli
Caven & Aghevli LLC
9249 S. Broadway Blvd.
Unit 200-201
Highlands Ranch, CO 80129

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STERNE, KESSLER, GOLDSTEIN & FOX PLLC
1100 NEW YORK AVENUE NW
WASHINGTON, DC 20005

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JAN 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Hongwei Wang et al	:	
Application No. 11/015,887	:	DECISION GRANTING PETITION
Filed: December 17, 2001	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1875.1260001	:	

This is a decision on the petition, filed April 24, 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**, *nunc pro tunc*.

The file record discloses the following:

- A first Notice of Allowance and Fee(s) Due was mailed on February 3, 2005, requiring submission of a $1,400 issue fee and a $300 publication fee. The concurrently mailed Notice of Allowability required the submission of corrected replacement drawings.
- On April 27, 2005, the issue fee, the publication fee, and replacement drawings were timely submitted.
- On April 24, 2006, a petition to withdraw from issue, a request for continued examination (RCE) under 37 CFR 1.114, and an information disclosure statement were filed.
- Thereafter, on June 14, 2006, the Examiner issued a non-final Office action, prior to the rendering of any decision on the petition under 37 CFR 1.313(c)(2) to withdraw this application from issue.

It is noted that, although the petition to withdraw from issue had not been acted upon by the appropriate deciding official of the U.S. Patent and Trademark Office, the Technology Center processed the request for continued examination (RCE) under 37 CFR 1.114, prosecuted the application, and ultimately issued a new Notice of Allowance and Fee(s) Due and Notice of Allowability on October 19, 2006. The issue fee was paid on January 17, 2006.

Where an issue fee has been paid and an RCE is subsequently filed, the RCE is not a proper filing unless a petition to withdraw from issue has been granted by an appropriate deciding official. Therefore, the Examiner was without authority to act further in this case absent a grantable petition withdrawing the application from issue. Nevertheless, in view of this decision on petition, the RCE is now

considered a proper filing and the actions of the Examiner taken thereafter are hereby ratified.

This application is currently before the Office of Publications for processing into a patent.

Frances Hicks
Petitions Examiner
Office of Petitions

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APR 0 8 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Edward E. Roberts
P.O. Box 3206
Dana Point, CA 92629

In re Application of :
Duc T. Doan :
Application No. 11/015,893 : DECISION ON PETITION
Filed: December 20, 2004 : TO MAKE SPECIAL
For: WARNING LONG TURN ARM :
(PNEUMATIC MANUAL AND RETRATABLE) :

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed December 20, 2004 which is considered as pursuant to MPEP §708.02 (IV), applicant's age.

A petition to make special under MPEP §708.02, IV, must show that petitioner is 65 years of age, or more. Acceptable evidence includes a birth certificate, copy of a driver's license, or simply a statement by the applicant. No fee is required.

The petition includes a copy of Duc T. Duan drivers license stating that he over 65 years of age.

Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant.

The application is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications
(571) 272-2986

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DIW Apr-08

CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

COPY MAILED

APR 0 9 2008

OFFICE OF PETITIONS

In re Application of	:	
Calhoun et al.	:	
Application Number: 11/015911	:	DECISION ON PETITION
Filing Date: 12/16/2004	:	
Attorney Docket Number: T-6471	:	

This is a decision on the petition filed on March 18, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

---

[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 Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application became abandoned on September 5, 2007, for failure to timely reply to the non-final Office action mailed on June 4, 2007, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 13, 2007.

The statement contained in the instant petition does not set forth that the entire delay from the due date of the required reply to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

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.[2] 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 petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

Receipt of the response to the non-final Office action is acknowledged.

The application is being referred to Technology Center Art Unit 2128 for further processing.

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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

cc:

CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON DC 20044-4300

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CHEVRON CORPORATION
P.O. BOX 6006
SAN RAMON CA 94583-0806

MAILED

MAY 19 2009

OFFICE OF PETITIONS

In re Application of	:	
CALHOUN et al.	:	DECISION ON PETITION
Application No. 11/015,911	:	
Filed: 12/16/2004	:	
Attorney Docket No. 1005950-000990	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on May 29, 2008, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on August 30, 2008. A Notice of Abandonment was mailed on October 1, 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 and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

This matter is being forwarded to the Office of Data Management for processing into a patent.

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

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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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MAR 06 2009

OFFICE OF PETITIONS

In re Application of
Carl E. Picciotto, et al.
Application No. 11/015,934
Filed: December 17, 2004
Attorney Docket No. 200315558-1

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed December 9, 2008.

The petition is GRANTED.

This application became abandoned for failure to timely pay the issue fees on or before September 22, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed June 20, 2008. A Notice of Abandonment was mailed on October 25, 2008. In response, on December 9, 2008, the present petition was filed.

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Ashok Mannava appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100219

DATE : February 19, 2009

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction on Patent No.: 7521784

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance **Certificates of Correction Branch**

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

☐ **Approved in Part** Specify below which changes **do not** apply.

☐ **Denied** State the reasons for denial below.

Comments:

/SUE PURVIS/
Supervisory Patent Examiner.Art Unit 2826

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September 2005

FATTIBENE & FATTIBENE
2480 POST ROAD
SOUTHPORT, CONNECTICUT 06890

SEP 07 2005

In re Application of:
ROBERT ZINCONE ET AL.
Serial No.: 11/015,942
Filed: 17 December 2004
Docket: P-2503
Title: SELF-CONTAINED AND POWERED TRAFFIC SIGNAL USING NATURAL AND ARTIFICIAL LIGHT

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(c) [ENERGY]

This is a decision on the petition filed on January 12, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VI) in accordance with 37 C.F.R. § 1.102(c).

The petition to make the application special is **GRANTED**.

In support of the petition, the petition provides a statement explaining how the invention materially contributes to reduction of energy consumption.

For accelerated examination under MPEP § 708.02(VI) in accordance with 37 C.F.R. § 1.102(c), a petition must include a statement explaining how the invention materially contributes to the conservation, discovery, or development of energy resources.

The requirements of MPEP § 708.02(VI) are considered to have been met. 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.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and

Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Any inquiry regarding this decision should be directed to Hien H. Phan, Special Program Examiner, at (571) 272-1606.

Hien H. Phan, Special Program Examiner
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

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In re Patent No. 6951130
Issue Date: October 4,2005
Application No. 11015945
Filed: December 17,2004
Attorney Docket No. M003 100160

:
:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)
:

This is a decision on the electronic petition, filed December 1,2009 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of December 1,2009 . This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
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 valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6951130	2005-10-04	11015945	2004-12-17	M003 100160

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
○ 3 ½ year	(1551)	◉ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Felix L. Fischer/	Date (YYYY-MM-DD)	2009-12-01
Name	Felix L. Fischer	Registration Number	31614

This collection of information is required by 37 CFR 1.378(c). 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 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. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Geraldine M. Lenges	: DECISION ON REQUEST FOR
Patent Number	: 7635736	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/015,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/16/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **209** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/015,963	12/17/2004	2161	1650	24504-09578	9	66	2

CONFIRMATION NO. 6902

CORRECTED FILING RECEIPT

OC000000015435842

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 03/11/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Mark Tsimelzon, Sunnyvale, CA;
Aleksey Sanin, Sunnyvale, CA;
Rajeev Motwani, Palo Alto, CA;
Glenn Robert Seidman, Woodside, CA;
Gayatri Patel, Monte Sereno, CA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 02/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/015,963

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Publish and subscribe capable continuous query processor for real-time data streams

Preliminary Class

707

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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Fenwick & West LLP
Silicon Valley Center
801 California Street
Mountain View CA 94041

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APR 12 2005

OFFICE OF PETITIONS

In re Application of	:	
Tsimelzon et al.	:	DECISION ON PETITION
Application No. 11/015,963	:	
Filed: December 17, 2004	:	
Attorney Docket No. 24504-09578	:	

This is a decision on the petition under 37 CFR 1.10, filed March 9, 2005, requesting that the above-identified application be accorded a filing date of December 17, 2004, rather than the filing date of December 20, 2004.

Petitioner alleges that the application was deposited in Express Mail service on December 17, 2004. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV301184462US. The Express Mail label indicates a date-in of December 20, 2004. However, the Express Mail label contains a United States Postal Service (USPS) stamp of December 17, 2004. Moreover, a USPS Service Track & Confirm receipt accompanies the petition, indicating the USPS accepted a package bearing Express Mail label No. EV301184462US on December 17, 2004, at 5:27 PM, in San Francisco, CA 94111. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

The application has undergone pre-exam processing and a corrected filing receipt was mailed on March 11, 2005, indicating that the application was accorded a filing date of December 17, 2004.

This matter will be referred to Technology Center 2161 for examination in due course.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Patent No. 7,469,059
Issued: December 23, 2008
Application No. 11/015,980
Filed: December 17, 2004
Attorney Docket No. **16113-1328001**

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed February 23, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred seventy-seven (577) days to nine hundred forty-nine (949) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On December 23, 2008, the above-identified application matured into US Patent No. 7,469,059 with a patent term adjustment of 577 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 949 days, which is the sum of 372 days of patent term adjustment due to exceeding three year pendency and 662 days due to USPTO delay in prosecution."

The 372-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 17, 2004, and the patent having been issued on December 23, 2008, three years and 372 days later. Patentees assert that in addition to this 372-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 662 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, it is the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 85 days for applicant delay.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (372 days) and the period of Examination Delay (662 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 949 days, which is the sum of the period of Three Year Delay (372 days) and the period of Examination Delay (662 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 949 days (372 + 662 reduced by 0 overlap – 85 (applicant delay)).

The Office agrees that as of the issuance of the patent on December 23, 2008, the application was pending three years and 372 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 662 days is correct. At issue is whether patentees should accrue 372 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 662 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 372 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. It is incorrect to treat the relevant period as starting on December 17, 2007, the date that is three years after the actual filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 17, 2004, to the date the patent issued on December 23, 2008. Prior to the issuance of the patent, 662 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 372 days for Office delay in issuing the patent overlap with the 662 days of Office delay. During that time, the issuance of the patent was delayed by 662 days, not 662 + 372 days. The Office took 14 months and 662 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the initial 662 days of Office delay and the 85 days of applicant delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 372 days. The Office did not delay 662 days and then an additional 372 days. Accordingly, 662 days of patent term adjustment (not 662 and 372 days) was properly entered since the period of delay of 372 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 662 days attributable to grounds specified in

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

§ 1.702(a)(1). Entry of both periods is not warranted. Thus, 662 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 372 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.

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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PEARNE & GORDON LLP
1801 EAST 9TH STREET
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CLEVELAND, OH 44114-3108

Mail Date: 04/21/2010

Applicant	: Josh Kolenc	: DECISION ON REQUEST FOR
Patent Number	: 7617013	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/016,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **544** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PEARNE & GORDON LLP
1801 EAST 9TH STREET
SUITE 1200
CLEVELAND, OH 44114-3108

Mail Date: 05/18/2010

Applicant : Josh Kolenc
Patent Number : 7617013
Issue Date : 11/10/2009
Application No : 11/016,001
Filed : 12/17/2004

: NOTICE CONCERNING IMPROPER
: CALCULATION OF PATENT TERM
: ADJUSTMENT BASED UPON USPTO
: IMPROPERLY MEASURING REDUCTION
: PERIOD UNDER 37 CFR 1.704(c)(10).

The United States Patent and Trademark Office (USPTO) discovered that in processing the recent recalculation decisions mailed in response to patentee's filed Request for Recalculation of Patent Term Adjustment in view of Wyeth, the USPTO improperly measured the reduction period for reductions under 37 CFR 1.704(c)(10). Pursuant to 37 CFR 1.704(c)(10), patentee's reduction begins on the date of filing the amendment under 37 CFR 1.312 ("1.312 amendment") or other related paper and ends on the date that the Office mails a response to the filing of the 1.312 amendment or other paper. It has been discovered that during the recalculation, the calculation failed to the limit the reduction to the mail date of the response to the 1.312 amendment or other paper. Accordingly, patentee's reductions were greater than warranted.

This notice **VACATES** the previous GRANTED request for recalculation and provides patentee with a revised GRANTED recalculation.

The patent term adjustment has been determined to be **604** 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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Gunnar G.Leinberg, Esq.
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Mancini et al.
Application No. 11/016,009
Filed: December 17, 2004
Attorney Docket No. 81762/391
For: A Wire to Board Connector and Methods Thereof

DECISION ACCORDING STATUS UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed June 3, 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 fee for a petition under 37 CFR 1.47 increased to $200 on November 1, 2004.[1] Petitioner submitted $130. Therefore, $70 has been charged to petitioner's 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 concerning this decision should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

[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).

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Greg Norton
98 Miles Standish Drive
Marlboro, MA 01752

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AUG 1 8 2005

OFFICE OF PETITIONS

In re Application of
Mancini et al.
Application No. 11/016,009
Filed: December 17, 2004
Attorney Docket No. 81762/391
For: A Wire to Board Connector and Methods Thereof

Letter

Mr. Norton:

You are named as a joint inventor in the above identified United States patent application.

Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you, or a registered patent attorney or agent on your behalf, have the right to obtain copies of any papers which are part of the file wrapper. 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).

General requests for information regarding the application should be directed to the File Information Unit at (703)308-2733.

Telephone inquiries regarding this communication may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

cc: Gunnar G.Leinberg, Esq.
Nixon Peabody LLP
Clinton Square
P.O. Box 31051
Rochester, NY 14603-1051

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Rochester, NY 14603-1051

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OFFICE OF PETITIONS

In re Application of :
Mancini, et al. :
Application No.: 11/016,009 : ON PETITION
Filed: December 17, 2004 :
Attorney Docket No: **81762/391** :

This is regarding the "Correction to Submission of Deficiency Payment Filed January 4, 2006", filed February 8, 2006. It will be treated as a request to make corrections to fee payments under 37 CFR 1.28.

The request is **GRANTED.**

The record reflects that a petition under 37 CFR 1.28 was filed on December 29, 2005, citing the above-cited patent application incorrectly. As per the petition, adjustments were made to the fees paid on application serial number 11/016,009. The petition should have been filed in application serial number 10/435,801, however. After discovering the mistake, the attorney of record for application serial number 10/435,801 filed the instant request for correction of the record.

A review of the application file records for applications 11/016,009 and 10/435,801 reveal that the necessary adjustments and corrections have been made to the fees for both applications. No further action by the Office of Petitions is believed to be necessary.

A courtesy copy of this decision is being mailed to the attorney of record for application 10/435,801.

The application file will be directed to Technology Center 2800, GAU 2833 for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

cc:

MAINE & ASMUS
100 MAIN STREET
P O BOX 3445
NASHUA, NH 03061-3445

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AUG 3 2005

Ezra Sutton, Esq.
Plaza 9, 900 Route 9
Woodbridge NJ 07095

In re Application of	:
Dr. Edward L. Tobinick	: PETITION TO MAKE SPECIAL
Serial No.: 11/016,047	:
Filed: December 18, 2004	:
Attorney Docket No.: TOBINICK 3.0-020	

This is in response to applicant's petitions filed March 22, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d). The delay in responding to this petition is regretted.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

The application will be forwarded the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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OFFICE OF PETITIONS

Ezra Sutton, Esq.
Plaza 9, 900 Route 9
Woodbridge, NJ 07095

In re Application of	:	
Edward Lewis Tobinick	:	
Application No. 11/016,047	:	ON PETITION
Filed: December 18, 2004	:	
Attorney Docket No.: TOBINICK 3.0-020	:	

This is a decision on the "Petition to Make Special and Expedite Application" and the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182", both filed February 2, 2007. The "Petition to Make Special and Expedite Application" will be treated under 37 CFR 1.182 as a petition to expedite processing of the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182."

The petition to expedite under 37 CFR 1.182 is **granted**.

The petition to withdraw the terminal disclaimer is **dismissed**.

A review of the application file history reveals that a "Terminal Disclaimer to Obviate a Double Patenting Rejection Over a "Prior Patent" was filed on July 13, 2006. On February 2, 2007, the instant petition was filed to withdraw the terminal disclaimer on the grounds that amendments were made to various claims that added novelty over the prior patent. Examiner Chang-Yu Wang has determined that the terminal disclaimer is still necessary to obviate a double patenting rejection. Examiner Wang has determined that the terminal disclaimer is necessary " . . . since the vertebral venous system is a valveless system, which the fluid could either travel up and down along the venous system of the body, adding the limitation of a Trenelenburg position to facilitate the drug delivery to the brain (put the head position below horizontal) would be obvious because it is an effect of anti-gravity." The petition to withdraw the terminal disclaimer is dismissed based on Examiner Wang's determination.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222. Questions relative to the need for the terminal disclaimer should be directed to Examiner Wang.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAR 1 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Edward Lewis Tobinick	:	
Application No. 11/016,047	:	ON PETITION
Filed: December 18, 2004	:	
Attorney Docket No. TOBINICK 3.0-020	:	

This is in response to the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182", filed February 2, 2007.

The decision mailed February 22, 2007, dismissing the petition to withdraw the terminal disclaimer is **vacated**.

The petition is **granted**.

Examiner Chang-Yu Wang has determined that the terminal disclaimer filed July 13, 2006, can be withdrawn[1]. The terminal disclaimer is withdrawn, accordingly.

The application is being directed to Technology Center 1600, GAU 1649 for further processing including entry in the record of the withdrawal of the terminal disclaimer filed July 13 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] The instant petition was dismissed initially because Kenya A. McLaughlin, Petitions Attorney, was advised by Examiner Wang that the terminal disclaimer was necessary. By e-mail correspondence sent February 27, 2007, Ms. McLaughlin was advised by Janet Andres, SPE AU 1649, that the terminal disclaimer could be withdrawn.

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OFFICE OF PETITIONS

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In re Application of	:	
Edward Lewis Tobinick	:	
Application No. 11/016,047	:	ON PETITION
Filed: December 18, 2004	:	
Attorney Docket No. TOBINICK 3.0-020	:	

This is in response to the "Petition to Withdraw Terminal Disclaimer under 37 CFR 1.182", filed February 2, 2007.

The decision mailed February 22, 2007, dismissing the petition to withdraw the terminal disclaimer is **vacated**.

The petition is **granted**.

Examiner Chang-Yu Wang has determined that the terminal disclaimer filed July 13, 2006, can be withdrawn[1]. The terminal disclaimer is withdrawn, accordingly.

The application is being directed to Technology Center 1600, GAU 1649 for further processing including entry in the record of the withdrawal of the terminal disclaimer filed July 13 2006.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] The instant petition was dismissed initially because Kenya A. McLaughlin, Petitions Attorney, was advised by Examiner Wang that the terminal disclaimer was necessary. By e-mail correspondence sent February 27, 2007, Ms. McLaughlin was advised by Janet Andres, SPE AU 1649, that the terminal disclaimer could be withdrawn.

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Stamford CT 06901-2682

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OFFICE OF PETITIONS

In re Application of	:	
LAUFER, et al.	:	
Application No. 11/016,059	:	DECISION GRANTING PETITION
Filed: December 17, 2004	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **637.0042USU**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 20, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 15, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Technology Center AU 2872 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

[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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AUG 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Roy Weinstein :
Application No. 11/016,082 :
Filed: 17 December, 2004 :
Atty Docket No. PD-1064.10.1 :

ON PETITION

This is in response to the petition filed under 37 CFR 1.182 on 28 June, 2005, requesting that drawings from a prior application be transferred to the present application.

The petition is **GRANTED**.

The above-identified application was filed on 17 December, 2004.

On 8 March, 2005, Initial Patent Examination Division mailed a Notice to File Corrected Application Papers, stating that replacement drawings in compliance with 37 CFR 1.84 and 1.121 were required. The Notice also stated that $105.00 in additional fees were required.

On 28 June, 2005, the present petition was filed, along with a two (2) month extension of time and the additional fees.

Petitioner requests that the drawings from prior application 10/039,257, filed on 31 December, 2001, and issued as U.S. Patent No. 6,869,915 on 22 March, 2005, be transferred to the present application based on hardship as set forth in MPEP 608.02(i). Specifically, petitioner states that the drawings are prints from photomicrographs and that the original photomicrographs are no longer available and cannot be reproduced.

As the prior application was pending when the present application was filed, the petition is grantable. The prior application is now stored in the Image File Wrapper (IFW) system wherein scanned images of the drawings that were originally filed in the prior application now are part of the Official file wrapper. The originally filed photomicrographs were not retained in an artifact folder. With the IFW system, images from an original

application can be cloned and moved to another application without removing the images from the original application.

A copy of the images of the drawings from the IFW of prior application, No. 10/039,257, has been added to the file of the present application.

Petitioner is reminded that the fee for a petition under 37 CFR 1.182 is now $400.00. Since $130.00 was submitted with the present petition, a balance of $270.00 is due. Petitioner is expected to remit this fee deficiency upon receipt of this decision.

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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AUG 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Christophe Remy	:	
Application No.: 11/016093	:	ON PETITION
Filing or 371(c) Date: 12/17/2004	:	
Attorney Docket Number:	:	
SP03-182	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 C.F.R. § 1.137(b), filed May 27, 2008

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed October 17, 2007. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on January 18, 2008. A Notice of Abandonment was mailed April 25, 2008.

Applicant files the present petition and includes an Amendment in response to the Office action. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Amendment is filed with the present petition; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

This application is being referred to Technology Center Art Unit 1792 for processing of the Amendment filed with the petition in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
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SAP / FINNEGAN, HENDERSON LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

Mail Date: 04/21/2010

Applicant	: Carola Steinmaier	: DECISION ON REQUEST FOR
Patent Number	: 7603394	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/016,095	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 12/17/2004	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **341** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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EMERY L. TRACY
P.O. BOX 1518
BOULDER ,CO 80306

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OFFICE OF PETITIONS

In re Application of :
Elizabeth Hodges :
Application No. 11/016,125 : ON PETITION
Filed: December 18, 2004 :
Attorney Docket No. None :

This is a decision on the petition under 37 CFR 1.137(b), filed June 19, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b)[1] must be accompanied by: (1) the required reply,[2] unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lacks item 1.

It is noted that petitioner included a response to the Notice to File Missing Parts in the form of a check for $355. Unfortunately, instead of retaining the $105 search fees which were required, the USPTO refunded the entire $355 paid. The application cannot be revived until the additional search fees are submitted.

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[1] As amended effective December 1, 1997. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53194-95 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 119-20 (October 21, 1997).

[2] In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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 decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Elizabeth Hodges :
Application No. 11/016,125 : ON PETITION
Filed: December 18, 2004 :
Attorney Docket No. None :

This is a decision in response to the renewed petition, filed December 7, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is DISMISSED AS MOOT.

The application was held abandoned for a failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed February 10, 2005. The Notice required additional filing fees to complete the search fee and set a two (2) months period for reply.

A further review of the record discloses that all the requisite filing fees were paid February 18, 2005, well within the period set in the Notice mailed February 10, 2005. Accordingly, no abandonment existed.

In view of the above, the petition under 37 CFR 1.137(b) is unnecessary and the $750 petition fee paid with the original petition on June 19, 2006 will be refunded in the form of a Treasury Check. Likewise, the $355 additional filing fee paid on December 7, 2006 is unnecessary and will be refunded to counsel's credit card.

The application is being referred to Technology Center Art Unit 3673 for prosecution in due course.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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TOWNSEND AND TOWNSEND AND CREW, LLP
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FEB 26 2008

In re Application of	:	
BOUNAUD, Pierre-Yves et al.	:	
Application No. 11/016,126	:	DECISION ON PETITION
Filed: December 17, 2004	:	TO WITHDRAW
Attorney Docket No. **20268-706.201**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 01, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to TOWNSEND AND TOWNSEND AND CREW, LLP has been revoked by the assignee of the patent application on February 13, 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: **WILSON SONSINI GOODRICH & ROSATI**
650 PAGE MILL ROAD
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OFFICE OF PETITIONS

In re Application of	:	
Reddy et al.	:	
Application No. 11/016,137	:	ON PETITION
Filed: December 17, 2004	:	
Attorney Docket No. 05149.0009.NPUS05	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 3, 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 signed by the applicant, including his date-of-birth. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3206.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

This matter is being referred to the Technology Center Art Unit 2674 for action on the merits commensurate with this decision.

Liana Chase
Petitions Examiner
Office of Petitions