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**1221 NICOLLET AVENUE**
**SUITE 800**
**MINNEAPOLIS, MN 55403-2420**

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AUG 09 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Kenneth M. Merdan et al | : | |
| Application No. 11/026,943 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 1001.1756103 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 27, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 1725 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/026,943 | 12/30/2004 | 1725 | 1050 | 1001.1756103 | 21 | 2 |

**CONFIRMATION NO. 5256**

**CORRECTED FILING RECEIPT**

*OC000000025268189*

28075
CROMPTON, SEAGER & TUFTE, LLC
1221 NICOLLET AVENUE
SUITE 800
MINNEAPOLIS, MN 55403-2420

Date Mailed: 08/09/2007

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)**

Kenneth M. Merdan, Greenfield, MN;
Jan Weber, Maple Grove, MN;

**Power of Attorney:** The patent practitioners associated with Customer Number **28075**.

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/754,314 01/09/2004 PAT 6,888,098
which is a CON of 10/190,424 07/03/2002 PAT 6,696,666

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/28/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/026,943**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Tubular cutting process and system

**Preliminary Class**

219

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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OFFICE OF PETITIONS

In re Application of :
Kenneth M. MERDAN et al. :
Application No. 11/026,943 : DECISION ON PETITION
Filed: December 30, 2004 :
Attorney Docket No. 1001.1756103 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 07, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed September 12, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on November 14, 2007. *See* MPEP 1215.04.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $1,540.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/168,658, filed July 07, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $2,230.00 extension of time fee submitted with the petition on July 07, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

This application is being referred to Technology Center AU 3742 for processing of the continuation application.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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**FOLEY & LARDNER LLP**
**P.O. BOX 80278**
**SAN DIEGO CA 92138-0278**

| | | |
|---|---|---|
| In re Application of | : | |
| **SIUKONEN**, Juha | : | |
| Application No. 11/026,944 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO WITHDRAW |
| Attorney Docket No. **037145-0675 (NC48505US** | : | 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 **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 G. Peter Albert, Jr. on behalf of all attorneys of record who are associated with customer No. 30542. All attorneys/agents associated with the Customer Number 30542 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at Tredelle Jackson.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JUHA SIUKONEN**
**KARKIKUJA 2 AS 24**
**TAMPERE**
**FIN-33720**
**FINLAND**

cc: **BRADLEY C. WRIGHT**
**BANNER & WITCOFF LLP**
**1100 13TH STREET, N.W.**
**SUITE 1200**
**WASHINGTON, DC 20005**

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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

**PANDO,** Richard
Application No. 11/026,948
Filed: December 29, 2004
Attorney Docket No. **100580.0006US1**

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 03, 2008.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (04-08).

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **ROBERT FISH**
**FISH & ASSOCIATES, PC**
**2603 MAIN STREET, SUITE 1050**
**IRVINE CA 92614**

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Paper No.

MERCHANT & GOULD (MICROSOFT)
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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JUL 07 2009

**OFFICE OF PETITIONS**

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|---|---|
| In re Application of<br>Hughes et al.<br>Application No. 11/026,953<br>Filed: December 30, 2004<br>Attorney Docket No.:<br>40062.0283US01<br>Title: METADATA-BASED<br>APPLICATION MODEL FOR LARGE<br>APPLICATIONS | DECISION ON PETITION<br>PURSUANT TO<br>37 C.F.R. § 1.181(A) |

This is a decision on the petition filed June 17, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **GRANTED**.

## BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed September 2, 2008, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 3, 2008. A notice of abandonment was mailed on June 3, 2009.

## RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> 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 sets forth, *in toto*:

(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.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

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).

## ANALYSIS

With this petition, Petitioner has stated that the non-final Office action of September 2, 2008 was not received at the correspondence address of record,[1] and that a search of the file jacket and the application contents indicates that the communication was not received.[2]

Petitioner has further included a copy of the master docket[3] and a copy of the docket record that is associated with this particular application.[4]

Moreover, Petitioner has included a statement of facts that establishes that Office communications are entered into an

1 Petition, page 1.
2 Id.
3 Exhibit A.
4 Exhibit B.

electronic docketing system,[5] which generates docket reports that are distributed to the responsible attorneys and/or his/her assistant on a daily basis.[6] Moreover, the electronic docketing system generates 6-week reminder reports every six weeks.[7]

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the non-final Office action of September 2, 2008 was not received.

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

## CONCLUSION

It is noted that Petitioner has included a petition fee of $400, when there is no fee associated with the filing of this petition. As such, the $400 payment will be refunded to Petitioner's credit card in due course.

The Technology Center will be notified of this decision, and jurisdiction over the application is transferred to the Technology Center, so that the application may receive further processing. **The Technology Center's support staff will re-mail the non-final Office action of September 2, 2008, and will set a new period for response.**

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the withdrawal of the holding of abandonment has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status**.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.[8] All other inquiries

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5 Claflin declaration of facts, paragraph 4.
6 Id. at paragraph 5.
7 Id. at paragraph 6.
8 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Radhachandran Padmanaban | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7573883 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/026,958 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/31/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **968** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**MOTOROLA, INC.**
**LAW DEPARTMENT**
**1303 E. ALGONQUIN ROAD**
**SCHAUMBURG IL 60196**

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FEB 18 2009

**OFFICE OF PETITIONS**

In re Application of :
William N. SHORES et al. :
Application No. 11/026,959 :
Filed: December 30, 2004 :
Attorney Docket No: CE11181W :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed December 12, 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 Final Office Action mailed May 12, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on August 13, 2008.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and the required fee; (2) the petition fee of $1,620; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Office Action mailed May 12, 2008 is accepted as having been unintentionally delayed.

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

The application file is being referred to Technology Center AU 2416 for appropriate action on the concurrently filed Notice of Appeal and Appeal Brief.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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BANNER AND WITCOFF LTD
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| In re Application of | : | |
| Benny R. Brown, et al. | : | |
| Application No. 11/026,973 | : | DECISION ON REQUEST |
| Filed: December 30, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 006507.00002 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed October 18, 2005.

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

The request was signed by William J. Allen on behalf of himself and all the other attorneys/agents of record associated with Customer No. 22908. However, a review of the file record indicates that the assignee of the patent application revoked all previous powers of attorney on January 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 an outstanding Office action mailed March 20, 2006 that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to Sherry D. Brinkley at 571-272- 3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Conferee:

cc: OLSON & HIERL, LTD.
20 NORTH WACKER DRIVE
36TH FLOOR
CHICAGO IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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**GRANVILLE OH 43023**

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JUN 18 2009

OFFICE OF PETITIONS

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| In re Application of | : | |
| Guter et al. | : | |
| Application No. 11/026,983 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 25495A | : | |

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

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a proper and timely manner to the Notice of Non-Compliant Amendment mailed August 25, 2008, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 26, 2008. A Notice of Abandonment was mailed March 30, 2009.

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

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

The application file is being referred to Technology Center AU 1793 for appropriate action on the concurrently filed amendment.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

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LAMORTE & ASSOCIATES, P.C.
P.O. BOX 434
YARDLEY, PA 19067

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In re Application of :
Courtney J. Potter :
Application No. 11/026,987 : ON PETITION
Filed: January 3, 2005 :
Attorney Docket No. Potter-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on December 24, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed May 8, 2007. A Notice of Abandonment was mailed on December 12, 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 Eric LaMorte 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 an amendment; (2) the petition fee of $770; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 3752 for review of the amendment filed with the instant petition.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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Paper No.

Paul M. Denk
763 S. New Ballas Road, Ste. 170
St. Louis MO 63141

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APR 15 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sunny En Luing Huang | : | |
| Application No. 11/026,990 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | PURSUANT TO |
| Attorney Docket Number: 7604 | : | 37 C.F.R. § 1.137(B) |
| Title: COLLAPSIBLE AUTO SHADE | : | |

This is a decision on the petition, pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on August 6, 2007.

This petition is **DISMISSED.**

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-compliant Appeal Brief, mailed December 4, 2006, which set a one-month period for response. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, this application became abandoned on January 5, 2007. A notice of abandonment was mailed on July 10, 2007.

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.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted an Appeal Brief, the petition fee, and a statement that is being construed as the proper statement of unintentional delay.

Petitioner has met the second and third requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the first requirement, the requirement has not been satisfied because Petitioner did not submit the required reply to the Office action. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[1]. In order for the application to be revived, Petitioner must submit a reply that satisfies 37 C.F.R. §1.137(b)(1) (i.e., an Appeal Brief that complies with each provision of 37 C.F.R. § 41.37).

The Examiner has considered the Appeal Brief that was filed concurrently with this petition, and it has not been found to be in compliance with each provision of 37 C.F.R. § 41.37, for the reasons set forth in the attached Advisory Action.

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

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1 See MPEP § 711.03(c).

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4]. 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 concerning examination procedures or the attached Advisory Action should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Advisory Action

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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 any further action(s) of Petitioner.

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Paul M. Denk
763 S. New Ballas Road, Ste. 170
St. Louis MO 63141

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|---|---|---|
| In re Application of | : | |
| Sunny En Luing Huang | : | |
| Application No. 11/026,990 | : | DECISION ON RENEWED PETITION |
| Filed: December 30, 2004 | : | PURSUANT TO |
| Attorney Docket Number: 7604 | : | 37 C.F.R. § 1.137(B) |
| Title: COLLAPSIBLE AUTO SHADE | : | |

This is a decision on the renewed petition pursuant to 37 C.F.R. § 1.137(b), to revive the above-identified application, filed on May 19, 2008.

This renewed petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notification of Non-compliant Appeal Brief, mailed December 4, 2006, which set a one-month period for response. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, this application became abandoned on January 5, 2007. A notice of abandonment was mailed on July 10, 2007.

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.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on August 6, 2007, along with, *inter alia*, the petition fee. The petition was dismissed via the mailing of a decision on April 15, 2008.

37 C.F.R. § 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 C.F.R. § 1.137(b) was unintentional. Since the statement contained in this petition varies from the language required by 37 C.F.R. § 1.137(b)(3), the statement contained in this petition is being construed as the statement required by 37 C.F.R. § 1.137(b)(3) and Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition.

With this petition, Petitioner has submitted an Appeal Brief and a statement that is being construed as the proper statement of unintentional delay.

The Examiner has considered the Appeal Brief that was filed concurrently with this petition, and it has been found to be in compliance with each provision of 37 C.F.R. § 41.37.

Petitioner has met the first three requirements of Rule 1.137(b). The fourth requirement is not applicable, as a terminal disclaimer is not required.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the appeal brief was received with the present petition can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this

decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[1] All other inquiries concerning examination procedures or the attached Advisory Action should be directed to the Examiner.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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| In re Patent No. 7,465,447 | : | |
| GILLIES et al. | : | DECISION ON |
| Issue Date: December 16, 2008 | : | REQUEST FOR RECONSIDERATION |
| Application No. 11/026,998 | : | OF |
| Filed: December 30, 2004 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. LEX-027 | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) AND 37 C.F.R. § 1.705(d)", filed February 13, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred seventy-eight (378) days to seven hundred thirty (730) days.

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

On December 16, 2008, the above-identified application matured into US Patent No. 7,465,447 with a revised patent term adjustment of 378 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment. Patentees assert that where there is no overlap between the PTO delay under 35 U.S.C. 154(b)(1)(A) and the delay under 35 U.S.C. 154(b)(1)(B), the correct calculation for patent term adjustment is the sum of PTO delay plus Three Year delay. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.702(b), of 352 days

and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 477 days do not overlap.

The 352-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on December 30, 2004, and the patent having been issued on December 16, 2008, three years and 352 days later. Patentees assert that in addition to this 352-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a) of 477 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to 37 CFR 1.702(a)(1). A Restriction Requirement was mailed on June 20, 2007, 14 months and 477 days after the application was filed on December 30, 2004.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of 99 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 (352 days) and the period of Examination Delay (477 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 829 days, which is the sum of the period of Three Year Delay (352 days) and the period of Examination Delay (477 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 730 days (352 + 477 reduced by 0 overlap - 99 (applicant delay)).

The Office agrees that as of the issuance of the patent on December 16, 2008, the application was pending three years and 352 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 477 days is correct. At issue is whether patentees should accrue 352 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 477 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 352 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of

> delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

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

In this instance, the relevant period under 35 U.S.C. 154(b)(i)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, December 30, 2004 to December 16, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(i)(B)(i)-(iii)). The period of delay of 352 days for the Office taking in excess of three years to issue the patent overlaps with the 477 days accorded pursuant to 37 CFR 1.702(a)(1) during the pendency of the application. 477 days is determined to be the actual number of days that the issuance of

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

the patent was delayed, considering the 352 days over three years to the issuance of the patent. Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made. The revised determination of patent term adjustment of 378 days at the time of the issuance of the patent will remain.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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| In re Application of | : | |
| Pete D. Vogt | : | |
| Application No. 11/027,004 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. P20156 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 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 December 18, 2006. 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 March 19, 2007. A Notice of Abandonment was mailed on September 12, 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.

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

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

The matter is being forwarded to Group Art Unit 2827 for consideration of the Amendment filed March 20, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

cc: Edmund P. Pfleger
55 S. Commercial St.
Manchester, NH 03101

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

Mail Date: 04/28/2010

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|---|---|---|
| **Applicant** | : Josef Dietl | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7620890 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/027,012 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **51** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Date Mailed : March 12, 2007

Patent No. :7,119,748
Inventor :Marko Autti
Patent Issued :December 31, 2006
Docket No. : 944-003.284
Re: Request for Certificate of Correction

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

Inspection of the application for the patent reveals, however, that in connection with the alleged errors to which applicant refers; columns 8 and 10 with respect to applicants request are printed in accordance with the record in the Patent and Trademark Office as passed to issue by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to a issue certificate of correction under the provisions of 35 U.S.C. 254 and Rule 322 of the Rules of Practice of the United States Patent and Trademark Office in Patent Cases.

Concerning Fig. 2d, applicants' attention is directed to Sheet 6 of 10 where Figure 2d has been reflected in the Letters Patent.

In view of the foregoing applicants request in these matters is hereby denied.

To further consider applicants request regarding Columns 8 and 10, a request for reconsideration filed under 37 CFR 1.323 which includes the required fee of $100.00 or a reconsideration filing together with documentation in support of applicants request filed under 1.322 should be submitted. Required documentation may include acknowledge-ment of receipt.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificate of Correction Branch. Any telephone inquiry concerning this communication should be directed to Ms. A. Green at (703) 308-9380 ext. 123.

Cecella Newman
Decisions & Certificates
of Correction Branch
(703) 308-9380 ext. 123 or (703) 308-9380 ext. 123

Kenneth Q. Lao
Ware, Fressola, Van Der Sluys &
Adolphson LLP
755 Main Street, P.O. Box 224
Monroe, Connecticut 06468

CBN/arg

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COX SMITH MATTHEWS INCORPORATED
112 EAST PECAN STREET, SUITE 1800
SAN ANTONIO, TX 78205-1521

**COPY MAILED**
DEC 17 2008

In re Application of
Mark A. Barry
Application No. 11/027,026
Filed: December 30, 2004
Attorney Docket No. 027404.0101PTUS

ON PETITION

This is a decision in response to the petition, filed September 11, 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 January 23, 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 April 24, 2008. A Notice of Abandonment was mailed on August 6, 2008. On August 20, 2008, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) a proposed reply in the form of an amendment; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center AU 3733 for appropriate action by the Examiner in the normal course of business on the response filed September 11, 2008.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: DAVID G. HENRY
2001 ROSS AVENUE, STE. 3000
DALLAS, TX 75201

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Atte Kotiranta | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7609268 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,028 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **242** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 05/18/2010

**Applicant** : Atte Kotiranta
**Patent Number** : 7609268
**Issue Date** : 10/27/2009
**Application No** : 11/027,028
**Filed** : 12/30/2004

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

Mail Date: 07/21/2010

| | | |
|---|---|---|
| **Applicant** | : Robert W. Heath | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649868 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/027,031 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **847** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**HANLEY, FLIGHT & ZIMMERMAN, LLC**
**20 N. WACKER DRIVE**
**SUITE 4220**
**CHICAGO, IL 60606**

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MAR 2 4 2005

**OFFICE OF PETITIONS**

In re Application of :
Koh, Kwan-Ju :
Application No. 11/027,034 :
Filed: December 30, 2004 :
Attorney Docket No. 20067/OPP042763 :

ON PETITION

This is a decision on the petition filed March 7, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, rather than the presently accorded date of December 31, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on December 30, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV 558610185 US showing an incorrect handwritten "date-in" of "December 31, 2004." The same Express Mail receipt number appears on the original "Patent Application Transmittal Letter," which includes the Express Mail label number. The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated December 30, 2004 on the cover page for the application papers. Additionally, applicant has submitted copy of the Track & Confirm record showing that the package in question was accepted on December 30, 2004, at 5:39p.m. in Chicago, IL.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on December 30, 2004. Accordingly, the instant application is entitled to a filing date of December 30, 2004 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of December 30, 2004, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2823 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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**20 N. WACKER DRIVE**
**SUITE 4220**
**CHICAGO, IL 60606**

**COPY MAILED**

MAR 17 2005

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Shim, Sang Chul | : | |
| Application No. 11/027,035 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 20067/OPP042767 | : | |

This is a decision on the petition filed March 7, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, rather than the presently accorded date of December 31, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U. S. Postal Service (USPS) as Express Mail on December 30, 2004 pursuant to 37 CFR 1.10. In support, applicant has submitted a copy of Express Mail label No. EV558610335US showing an incorrect handwritten "date-in" of "December 31, 2004." The same Express Mail receipt number appears on the original "Patent Application Transmittal Letter," which includes the Express Mail label number. The Express Mail label number appears on the Certificate of Mailing by "Express Mail" and includes a statement of express mailing dated December 30, 2004 on the cover page for the application papers. Additionally, applicant has submitted copy of the Track & Confirm record showing that the package in question was accepted on December 30, 2004, at 5:40 p.m. in Chicago, IL.

Therefore, in view of all the evidence, it is concluded that the application was deposited in Express Mail service on December 30, 2004. Accordingly, the instant application is entitled to a filing date of December 30, 2004 and has been so accorded.

The petition is **GRANTED**.

A petition under 37 CFR 1.10(d) does not require a petition fee and none has been collected.

This matter is being referred to the Office of Initial Patent Examination Division for further **processing with a filing date of December 30, 2004, along with a corrected filing receipt.** Thereafter, the matter will be referred to Technology Center 2812 for examination in due course.

Telephone inquiries concerning this matter may be directed Paralegal Liana Chase at (571) 272-3206.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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**LEYENDECKER & LEMIRE, LLC**
**C/O PORTFOLIO IP**
**P.O. BOX 52050**
**MINNEAPOLIS MN 55402**

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APR 0 8 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mark Benedict | : | |
| Application No. 11/027,038 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. CSO-001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 20, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 5, 2008, is accepted as having been unintentionally delayed.

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

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

This application is being referred to the Office of Data Management to be processed into a patent.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**MARK BENEDICT**
**8785 CRESTHILL LANE**
**HIGHLANDS RANCH CO 50130**

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20 NORTH WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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MAR 28 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jae Hee Kim | : | |
| Application No. 11/027,049 | : | DECISION GRANTING |
| Filed: December 30, 2004 | : | PETITION |
| Attorney Docket No. 20063/640148US | : | |

This is a decision on the petition filed March 7, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, rather than the presently accorded date of December 31, 2004. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **GRANTED**.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on December 30, 2004 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt no. EV558610548US bears a handwritten "date-in" of December 31, 2004, it does not contain a U. S. Postal Service (USPS) date stamp. Nevertheless, petitioner has provided a copy of the results from the USPS Express Mail Track and Confirm database, which shows that the package in question was deposited on December 30, 2004. Applicants are alleging that the date of mailing shown in the "date-in" is a USPS error and the correct date of mailing pursuant to 37 CFR 1.10 is December 30, 2004. The same Express Mail number appears on the originally filed application papers.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513. However, in view of the results from the USPS Track and Confirm database, it is confirmed that the package bearing Express Mail label No. EV558610548US was accepted on December 30, 2004.

This application file is being returned to the Office of Initial Patent Examination Division for **correction of the filing date to December 30, 2005.** Thereafter, the application file will be forwarded to Technology Center 2800 for examination in due course.

Telephone inquiries concerning this matter may be directed Irvin Dingle at (571) 272-3210.

Marianne E. Jenkins

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

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Weingarten, Schurgin, Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, Massachusetts 02109

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DEC 13 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re | : | |
| **Beinhocker** | : | |
| Application No. 11/027,059 | : | RECONSIDERATION OF |
| Filing Date: December 30, 2004 | : | PATENT TERM ADJUSTMENT |
| Atty. Docket:327632-1 | : | |

This decision is in response to applicant's PETITION FOR RECONSIDERATION OF PTA timely filed on October 11, 2005 requesting that the Office adjust the PTA determination at the time of the mailing of the notice of allowance from a determination of Zero (0) days to a determination of fifty-six (56) days.

Applicants petition for reconsideration of PTA is **DISMISSED.**

Applicants assert that the proper amount of PTA at the time of the mailing of the notice of allowance is fifty-six days. Applicants do not assert any rationale as to why applicants are entitled to fifty-six (56) days of PTA.

A review of the file reflects that the Office did not have any administrative delays at the time of the mailing of the notice of allowance. The application was filed on December 30, 2004 and the Office mailed a non-final rejection on April 18, 2005, within 14 months and therefore not delay under 37 CFR 1.702(a)(1). In addition, the Office responded to applicants' response after non-final rejection on September 27, 2005, within four months and therefore did not delay under 37 CFR 1.702(a)(2).

After the mailing of this decision, the file will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays in issuing the patent within four months of the payment of the issue fee will be reflected in the issue

notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

The Office has assessed the $200.00 petition fee to Deposit Account 23-0804. No additional fees are required by the Office in deciding this petition.

Any questions relating to this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

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

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MARK D. BOWEN, ESQ.
MALIN, HALEY, DIMAGGIO, BOWEN & LHOTA, PA
1936 S. ANDREWS AVENUE
FT. LAUDERDALE, FL 33316

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APR 29 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| James Enos, et al. | : | |
| Application No. 11/027,096 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 5215.001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 30, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 19, 2007 which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 20, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $525 extension of time fee submitted with the petition on November 2, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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 undersigned at (571)272-1642.

This application is being referred to Technology Center AU 2182 for appropriate action by the Examiner in the normal course of business on the reply received October 30, 2007.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MARK D. BOWEN
200 EAST LAS OLAS BOULEVARD
SUITE 2100
FORT LAUDERDALE, FL 33301

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ONE LIBERTY PLACE
1650 MARKET ST, SUITE 4900
PHILADELPHIA PA 19103

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| | | |
|---|---|---|
| Patent No. 7,384,911 | : | DECISION ON APPLICATION |
| Issue Date: June 10, 2008 | : | FOR |
| Application No. 11/027,111 | : | PATENT TERM ADJUSTMENT |
| Filed: December 30, 2004 | : | and |
| Atty Docket No. BDM-04-1343 | : | NOTICE OF INTENT TO |
| | : | CERTIFICATE OF CORRECTION |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT" filed April 28, 2008, which is properly treated as an application for patent term adjustment under 37 CFR 1.705(b). Patentee requests that the patent term adjustment be corrected to seventy-eight (78) days (188 days of Office delay reduced by 111 days of applicant delay).

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

Prior to a decision being issued on this application for patent term adjustment, the instant application matured into a patent with a revised patent term adjustment of zero (0) days. The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **thirty-three (33)** days.

On February 5, 2008, the Office mailed the initial 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 0 days. The instant application for

patent term adjustment was timely filed[1] before payment of the issue fee.

Patentees dispute the reduction of 40 days associated with the filing of an election on December 7, 2006. Patentees assert that the response was originally filed on August 29, 2006, one day outside of the 3 months of the mailing of the restriction requirement mailed July 28, 2006, and thus, a forty (40) day reduction was not warranted. Further, given that the election was filed on August 29, 2006, and the Office did not mail an action in response until February 2, 2007, applicants assert that a period of adjustment of thirty-eight (38) days should be entered for Office delay.

The record supports a conclusion that this application is not subject to a terminal disclaimer.

Patentees' arguments have been considered and found persuasive. A review of the record reveals that the relevant election was resubmitted on December 7, 2006, along with a copy of applicants' date-stamped postcard. The postcard serves as *prima facie* evidence that the response to the election requirement was received in the Office on August 29, 2006 and misplaced by the Office. Receipt of the response on August 29, 2006 was outside 3 months of the mailing of the restriction requirement on July 28, 2006, by 1 day. As such, there was a one (1) day applicant delay within the meaning of 37 CFR 1.704(b). The period of reduction of 40 days is being removed and a period of reduction of one (1) day is being entered.

Moreover, as alleged by patentees, there is an additional basis for entry of a period of adjustment for Office delay in taking action in response to the election filed August 29, 2006. The Office did not mail an Office action in response to the election until February 2, 2007, four months and 38 days later. Pursuant to 37 CFR 1.702(a)(2), a period of adjustment of 38 days is being entered.

Patentees have disclosed periods of reduction for applicant delay of 4 days based presumably on a delayed response on December 30, 2007 and 26 days based presumably on a delayed response filed on January 25, 2008. The record does not support a conclusion that two separate papers were filed on December 30,

---

[1] PALM records indicate that the issue fee was paid on April 29, 2008.

2007 and January 25, 2008, warranting entry of such periods of reduction.

Rather, a period of reduction of 30 days was properly entered for the filing of the response on January 25, 2008. Patentees have improperly calculated the delay in submitting a supplemental response on January 25, 2008 as 26 days. The period under § 1.704(c)(8) is counted beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed. When a period is indicated (in 37 CFR 1.703 or 1.704) as "beginning" on a particular day, that day is included in the period, in that such day is "day one" of the period and not "day zero." For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length. See MPEP 2731. In this instance, the computer properly calculated the period as 30 days, counting the number of days beginning on December 26, 2007, the day after the initial reply was filed, and ending on January 25, 2008, the date the supplemental paper was filed.

Moreover, given entry of the additional period of adjustment of 38 days for Office delay pursuant to 37 CFR 1.702(a)(2), entry of the period of adjustment of 13 days for Office delay pursuant to 37 CFR 1.702(b) is not warranted. It is noted that the instant patent issued 3 years and 163 days after its filing date. However, 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. Further, in considering the overlap, the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). See 35 U.S.C. 154(b) (1)(B); 35 U.S.C. 154(b)(2)(A); and 37 CFR 1.703(f). In this instance, the period of delay of 163 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 188 days attributable to grounds specified in § 1.702(a)(1), and (2). Thus, at issuance, no additional period of adjustment should been entered. The additional period of adjustment of 13 days is being removed.

In view thereof, the patent should have issued with a revised patent term adjustment of thirty-three (33) days (150 + 38 days of Office delay reduced by 44 + 30 + 47 + 28 + 5 + 1 days of applicant delay).

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. Pursuant to the authorization submitted, the fee is being charged to Deposit Account No. 50-2719. No additional fees are required.

The application 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 THIRTY-THREE (33) days.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,384,911 B2

DATED : **June 10, 2008** **DRAFT**

INVENTOR(S) : Bulet 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 0 days

Delete the phrase "by 0 days" and insert – by 33 days--

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Alexandria, VA 22313-1450
www.uspto.gov

KIMBERLY-CLARK WORLDWIDE, INC.
Catherine E. Wolf
401 NORTH LAKE STREET
NEENAH, WI 54956

**COPY MAILED**

OCT 2 2 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jaime Braverman, et al. | : | |
| Application No.: 11/027,132 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 20530 | : | |

This is a decision on the petition under 37 CFR 1.182, filed July 7, 2008, to change the name of joint inventor "Melpo Lambidonis" to – Melpo Levantis --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's name change. A corrected Filing Receipt, which correctly reflects the inventor's name, 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.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1794 for further prosecution.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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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 |
|---|---|---|---|---|---|---|
| 11/027,132 | 12/30/2004 | 1794 | 2280 | 20530 | 31 | 6 |

**CONFIRMATION NO. 1355**

**CORRECTED FILING RECEIPT**

23556
KIMBERLY-CLARK WORLDWIDE, INC.
Catherine E. Wolf
401 NORTH LAKE STREET
NEENAH, WI 54956

*OC000000032572731*

Date Mailed: 10/14/2008

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)**

Jaime Braverman, Atlanta, GA;
Bryon Paul Day, Canton, GA;
Arthur E. Garavaglia, Alpharetta, GA;
Holly A. Kiper, Canton, GA;
Melpo Levantis, Cumming, GA;
Tamara Lee Mace, Marietta, GA;
Ann L. McCormack, Cumming, GA;
Braulio Polanco, Roswell, GA;
Prasad Shrikrishna Potnis, Duluth, GA;
James A. Riggs, East Point, GA;
Oomman Painummoottil Thomas, Alpharetta, GA;

**Power of Attorney:** The patent practitioners associated with Customer Number 23556

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 05/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/027,132**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Elastic films with reduced roll blocking capability, methods of making same, and limited use or disposable product applications incorporating same

**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

**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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WILMINGTON, DE 19805

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| | | |
|---|---|---|
| In re Application of | : | |
| Charles D. MacPherson, et al. | : | |
| Application No. 11/027,133 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. UC0456USNA | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely respond to a Notice to File Corrected Application Papers mailed January 16, 2008, which set a period for reply of two (2) months. A Notice of Abandonment was subsequently mailed on April 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 a replacement drawings; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed August 4, 2008.

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Richard H. Wyman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7589790 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,140 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **485** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 05/18/2010

**Applicant** : Richard H. Wyman
**Patent Number** : 7589790
**Issue Date** : 09/15/2009
**Application No** : 11/027,140
**Filed** : 12/30/2004

: 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 **575** 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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233 S. WACKER DRIVE
6300 SEARS TOWER
CHICAGO, IL 60606

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APR 13 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cheol Mo. Jeong | : | |
| Application No. 11/027,153 | : | DECISION GRANTING PETITION |
| Filed: December 30, 2004 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 29936/40720 | : | |

This is a decision on the petition, filed April 11, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on March 27, 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 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 04/2/10

DATE : Sept. 12, 2009

TO SPE OF : ART UNIT 2885

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/027172 Patent No.: 738412

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**

*Magdalene Talley*
**Certificates of Correction Branch**
**703-308-9390 ext. 116**

**Thank You For Your Assistance**

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

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

**Comments:** Approved all as attached (corrected on column 8.)

J. Lee 4/12/10
SPE, AU 2885 Date

Staple Here Only!

Printer's Trim Line

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION



PATENT NO.: 7384173

DATED: June 10, 2008

FIRST NAMED INVENTOR: WHITNEY, LELAND R.

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

Column 4,
Line 19, Delete "lcd" and insert - - LCD - -, therefor.
Line 41, Delete "ht," and insert - - $h_t$,- -, therefor.
Line 42, Delete "ht" and insert - - $h_t$ - -, therefor.

Column 8,
Line 51, Delete "+75°" and insert - - ±75° - -, therefor.

Column 10,
Lines 19, In Claim 5, delete "the structured surface," and insert - - a major plane defined by the brightness enhancement article - -, therefor.
Line 57, In Claim 16, delete "source," and insert - - assembly, - -, therefor.
Line 62, In Claim 16, after "to"insert - - a major plane defined by - -.

Column 12,
Line 3, In Claim 17, delete "forth" and insert - - fourth - -, therefor.
Line 5, In Claim 17, after "the" delete "peak".

MAILING ADDRESS OF SENDER:

**OFFICE OF INTELLECTUAL PROPERTY COUNSEL**
**3M INNOVATIVE PROPERTIES COMPANY**
**3M CENTER - P.O. BOX 33427**
**SAINT PAUL, MINNESOTA 55133-3427**

PATENT NO. 7384173

No. of add'l copies: - 0-
@ 50¢ per page

No add'l copies

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**12400 WILSHIRE BOULEVARD**
**SEVENTH FLOOR**
**LOS ANGELES CA 90025-1030**

| | | |
|---|---|---|
| In re Application of | : | |
| Hwang Hur et al | : | |
| Application No. 11/027,195 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 51876P798 | : | |

This is a decision on the petition, filed January 18, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on October 3, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

The examiner of Technology Center AU 2824 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No. _____

Date : January 20, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

COPY MAILED
JAN 20 2006
OFFICE OF PETITIONS

Applicant(s) :Hwang Hur et al
Application No. :11/027,195
Filed :December 30, 2004

The above-identified application has been assigned Patent No. 6,996,022 and an issue date of February 7, 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 February 7, 2006:

"All reference to Patent No. 6,996,022 to Hwang Hur et al of Republic of Korea for BANK BASED SELF REFRESH CONTROL APPARATUS IN SEMICONDUTOR MEMORY DEVICE AND ITS METHOD appearing in the Official Gazette of February 7, 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
Tamara Greene, ST-8C13

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MOTOROLA, INC.
LAW DEPARTMENT
1303 EAST ALGONQUIN ROAD
3RD FLOOR
SCHAUMBURG IL 60196

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MAY 20 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Okimoto, et al. | : | |
| Application No. 11/027.206 | : | DECISION |
| Filed: 30 December, 2004 | : | |
| Attorney Docket BCS03479 | : | |

This is a decision on the petition filed on 23 July, 2007, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

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

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, no terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the requirements of the regulation, to wit:

## BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 24 October, 2006, with reply due absent an extension of time on or before 24 January, 2007.

The application went abandoned by operation of law after midnight 24 January, 2007.

The Office mailed a Notice of Abandonment on 7 May, 2007.

On 23 July, 2007, Petitioner filed the instant petition with fee and, *inter alia*, a reply in the form of an amendment, and made a proper 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. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

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

## STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

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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.

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

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal

## CONCLUSION

The instant petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 2136 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the Technology Center/AU in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center 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[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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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.))

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

**§1.2 Business to be transacted in writing.**

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

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PATTERSON & SHERIDAN L.L.P.
595 SHREWSBURY AVE, STE 100
FIRST FLOOR
SHREWSBURY NJ 07702

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JUN 08 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of Chatterjee | : | |
| Application No. 11/027,207 | : | |
| Filed: December 30, 2004 | : | |
| Attorney Docket Number: MOTO/BCS03702 | : | DECISION ON PETITION |
| Title of Invention: Method and Apparatus for Implementing Digital Filters | : | |

This is a decision on the petition under 37 CFR §1.137(b), filed May 4, 2007 to revive the above-identified application.

This petition is hereby **Dismissed**.

This application became abandoned for failure to timely submit corrected drawings, as required by the Notice of Allowability which was mailed December 29, 2006 and set a 3 month period for reply. Extensions of time were not available under 37 CFR §1.136(a). Accordingly, this application became abandoned on March 30, 2007. A Notice of Abandonment was mailed on April 25, 2007.

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

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

statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional"; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03 (c)(III)(c) and (D).

The petition has **not** been reviewed on the merits because the petition provided has not been signed appropriately.

Pursuant to 37 CFR 1.33, amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

(1) A registered attorney or agent of record appointed in compliance with § 1.34(b);

(2) A registered attorney or agent not of record who acts in a representative capacity under the provisions of § 1.34(a);

(3) An assignee as provided for under § 3.71(b) of this chapter; or

(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Pursuant to 37 CFR 1.4(d)(2)(ii), a patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature. Petitioner failed to provide a registration number with the electronic signature.

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

By mail:

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

By facsimile: (571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FEB 07 2007

OFFICE OF PETITIONS

WILLIAM MICHELS
P.O. BOX 12984
BERKELEY, CA 94703

| | | |
|---|---|---|
| In re Application of<br>William J. Michels<br>Application No. 11/027,224<br>Filed: December 30, 2004<br>Attorney Docket No. None | :<br>:<br>:<br>:<br>: | ON PETITION |

This is a decision in response the petition, filed June 15, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b). It is noted that while the present petition filed is unsigned, a ratification of the unsigned petition was filed by facsimile transmission on June 16, 2006.

The petition is **GRANTED**.

The application became abandoned on February 16, 2006 for a failure to reply in a timely manner to the non-final Office action mailed November 15, 2005. A Notice of Abandonment was mailed on May 30, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) the required statement of unintentional delay.

It is noted that a 2-month extension of time under 37 CFR 1.136 was erroneously applied to this application on June 15, 2006. However, extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired, i.e., February 16, 2006. Since, no extension of time fees are due on a petition for revival, the $225 extension fees are being credited to applicant's credit card.

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 file is being forwarded to Technology Center AU 1636 for consideration of the amendment filed June 29, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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**Advantedge Law Group, LLC**
**3301 N. University Avenue**
**Suite 200**
**Provo, UT 84604**

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| | | |
|---|---|---|
| In re Application of | : | |
| Todd K. Whitehurst et al. | : | |
| Application No. 11/027,227 | : | DECISION ON PETITION |
| Filed: December 30, 227 | : | TO WITHDRAW |
| Attorney Docket No. 3013-0147 (05-00557-03) | : | 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 February 11, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, "ownership transfer . . . ," does not meet any of the conditions set forth in 37 CFR 10.40.

A courtesy copy of this decision is being mailed to applicant, since no assignee has properly intervened in this application.

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

Applicant is advised that a final rejection was mailed on December 6, 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: Todd K. Whitehurst
4454 Vista Del Monte Avenue
#9
Sherman Oaks, CA 91403

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WOODCOCK WASHBURN LLP
ONE LIBERTY PLACE - 46TH FLOOR
PHILADELPHIA, PA 19103

| | | |
|---|---|---|
| In re Application of | : | |
| Greg Griffith, et. al. | : | DECISION ON REQUEST |
| Application No. 11/027,233 | : | TO WITHDRAW FROM |
| Filed: December 30, 2004 | : | RECORD |
| Attorney Docket No. BELL-0349/99230 C1 | : | |

This is a decision on the request to withdraw as attorney or agent of record under 37 CFR § 1.36(b) or 37 CFR § 10.40, filed on August 9, 2005.

The request to withdraw as attorney or agent is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to all the attorneys or agents associated with Customer Number 38952 have been revoked by the assignee of the patent application on December 16, 2005. Accordingly, the request to withdraw under 37 CFR § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

Andrea Smith
Petitions Examiner
Office of Petitions

cc: WITHERS & KEYS FOR BELL SOUTH
P.O. BOX 71355
MARIETTA, GA 30007-1355

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United States Patent and Trademark Office
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Weaver Austin Villeneuve & Sampson LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 07/13/2010

| | | |
|---|---|---|
| **Applicant** | : Rajeev Bector | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7649844 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/027,252 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/29/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1067** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SEP 09 2005

WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
P.O. BOX 7037
ATLANTA GA 30357-0037

| | | |
|---|---|---|
| In re Application of | : | |
| Christopher Sean Van Winkle, et al | : | DECISION PETITION |
| Serial No.: 11/027,281 | : | |
| Filed: December 30, 2004 | : | |
| Title: Body Armor | : | |

This is in response to applicants' petition filed May 12, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), as an invention for countering terrorism.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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FROM DIRECTORS OFFICE

Paper No. 12142005

DEC 15 2005

TECHNOLOGY CENTER 3600

DORITY & MANNING, P.A.
POST OFFICE BOX 1449
GREENVILLE SC 29602-1449

In re Application of
Mohr et al.
Application Number 11/027,286
Filed: 12/30/04
For: DISPOSABLE DISPENSING AND DISPLAY CARTON FOR PAPER TOWELS AND OTHER ROLLED PRODUCTS

ON PETITION
UNDER
37 CFR § 1.84(a)(2)

This is in response to the petition filed on November 7, 2005, under 37 CFR § 1.84(a)(2) requesting acceptance of color drawings in the instant application.

The application is hereby **DISMISSED**.

Under 37 CFR § 1.84(a)(2), color drawings may be necessary on rare occasions when they are the only practical medium by which to disclose the subject matter sought to be patented in a utility application. Petitioner states that the color drawings submitted as figures 20, 21, and 22 are the most practical medium for illustrating and clearly disclosing the ornamental effects of the design in the instant application.

A review of the application reveals that the claims recite characteristics of the design elements appearing on the claimed dispenser and rolled product in terms of the Munsell color scale. Because these characteristics are recited broadly and, as stated by petitioner, are ornamental design aspects of the invention, a black-and-white or gray scale depiction is sufficient to disclose and illustrate the subject matter sought to be patented in this utility application. Thus, color drawings are not the only practical medium by which to disclose the subject matter sought to be patented.

The preliminary amendment filed on November 7, 2005, adding a reference to color drawings to the specification, will NOT be entered.

Telephone inquiries should be directed to Katherine Matecki at (703) 272-6951.

Kathy Matecki

Katherine Matecki
Supervisory Patent Examiner
Art Unit 3654

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20091123

**DATE** : November 25, 2009

**TO SPE OF** : ART UNIT 2825

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7430726

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:** /Jack Chiang/ **Art Unit** 2825

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**KOLISCH HARTWELL, P.C.**
**200 PACIFIC BUILDING**
**520 SW YAMHILL STREET**
**PORTLAND, OR 97204**

**MAILED**

OCT 0 1 2009

OFFICE OF PETITIONS

In re Application of :
**Garr M. JONES**, et *al.* :
Application No. 11/027,295 : DECISION ON PETITION
Filed: December 30, 2004 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **CRN 311** :

This is a decision on the petition under 37 CFR 1.137(b), filed August 28, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 28, 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 August 29, 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 $810; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center Art Unit 3746 for consideration of the amendment filed August 28, 2009.

Inquiries regarding the status or examination of the application should be directed to the examiner.

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

Brian W. Brown
Petitions Examiner
Office of Petitions

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PLUMSEA LAW GROUP, LLC
10411 MOTOR CITY DRIVE
SUITE 320
BETHESDA MD 20817

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**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Zvi Rapaport et al.
Application No. 11/027,303
Filed: December 30, 2004
Attorney Docket No: 51-1149

This is a decision on the petition filed January 8, 2008, under 37 CFR 1.182, for withdrawal of the terminal disclaimer filed June 19, 2007.

The petition is **DISMISSED**.

The examiner responsible for the above-identified application has indicated that if the terminal disclaimer were withdrawn, patent no. 6,837,951 would still form the basis of a double patenting rejection. Accordingly, the terminal disclaimer can not be withdrawn.

The petition fee in the amount of $400.00 has been applied.

This matter is being referred to Technology Center 1791 for further examination in due course.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

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MAR 17 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Jeong Ho Park | : | DECISION GRANTING |
| Application No. 11/027,312 | : | PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 20063/640147US | : | |

This is a decision on the petition under 37 CFR 1.10(d), filed March 7, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, rather than the presently accorded filing date of December 31, 2004.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EV558610021US) on December 30, 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 31, 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 30, 2004.

In support, petitioners have submitted a copy of the "USPS Track & Confirm Shipment Details" record for Express Mail mailing label #EV558610021US, which indicates the item was, in fact, placed into USPS Express Mail service on December 30, 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 30, 2004.

Accordingly, the application is entitled to a filing date of December 30, 2004.

The application is being returned to the Office of Initial Patent Examination for issuance of a corrected filing receipt.

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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 |
|---|---|---|---|---|---|---|---|
| 11/027,312 | 12/30/2004 | 2812 | 1000 | 20063/640147US | 6 | 11 | 1 |

**CONFIRMATION NO. 7664**

**CORRECTED FILING RECEIPT**

*OC000000015531426*

34431
HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO, IL 60606

Date Mailed: 03/22/2005

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

**Applicant(s)**

Jeong Ho Park, Icheon, KOREA, REPUBLIC OF;

**Power of Attorney:** The patent practitioners associated with Customer Number **34431**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2003-0102063 12/31/2003

**If Required, Foreign Filing License Granted:** 02/22/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,312**

**Projected Publication Date:** 06/30/2005

**Non-Publication Request:** No

**Early Publication Request:** No

BEST AVAILABLE COPY

**Title**

Methods of fabricating MIM capacitors of semiconductor devices

**Preliminary Class**

438

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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2600 SOUTH SECOND STREET
P.O. DRAWER 1431
DUNCAN OK 73536-0440

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Gregory P. Perez | : | |
| Application No. 11/027,313 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. HES 2004-IP-016490U1 | : | |

This is a decision on the petition, filed August 10, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on July 16, 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]

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.

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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).

**Additionally, applicant is encouraged to note 37 CFR 1.4(c).**

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

The examiner of Technology Center AU 3676 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:
**BAKER BOTTS L.L.P.**
**ONE SHELL PLAZA**
**910 LOUISIANA**
**HOUSTON, TX 77002**

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**Townsend and Townsend and Crew, LLP**
**Two Embarcadero Center**
**Eighth Floor**
**San Francisco, CA 94111-3834**

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| | | |
|---|---|---|
| In re Application of | : | |
| Partho Ghosh et al. | : | |
| Application No. 11/027,323 | : | DECISION ON PETITION |
| Filed: December 31, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 021935-000200US | : | 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 29, 2008.

The request is **APPROVED**.

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

The request was signed by Kenneth E. Jenkins, on behalf of all attorneys/agents associated with customer number 20350. All attorneys/agents associated with customer number 20350 have been withdrawn.

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

The correspondence address has been changed and is copied below.

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: The Regents of the University of California
Office of Technology Transfer
1111 Franklin Street, 5th Floor
Oakland, CA 94607-5200

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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 |
|---|---|---|---|
| 11/027,323 | 12/31/2004 | Partho Ghosh | 021935-000200US |

**CONFIRMATION NO. 7640**

**POWER OF ATTORNEY NOTICE**

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

*OC000000033299116*

Date Mailed: 11/25/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/29/2008.

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

/kainabinet/

---

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

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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

| | |
|---|---|
| In re Application of | : |
| David Benson | : |
| Serial No.: 11/027,341 | : SUSPENSION OF ACTION |
| Filed: December 30, 2004 | : |
| Attorney Docket No.: 1435C | : |

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006. The delay in acting on this petition is regretted, but it was not forwarded for consideration until recently.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of a related application awaiting decision at the Board of Patent Appeals and Interferences.

**§ 1.103 Suspension of action by the Office.**

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of a related appealed case having the same issues. It is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. Absent examination it is impossible to determine whether the same issues appealed to the Board of Patent Appeals and Interferences, and only those issues, are present in this application. It is also noted that the related case has not yet proceeded to the Board of Patent Appeals and Interferences. In summary, no showing of good or sufficient cause for suspension has been made.

In view of the above reason the petition is **DENIED**.

**The application will be forwarded to the examiner for initial examination in turn.**

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

George C. Elliott
Director, Technology Center 1600

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Baker & Daniels LLP-Polaris
300 N. Meridian Street
Suite 2700
Indianapolis, IN 46204

Mail Date: 04/23/2010

| | | |
|---|---|---|
| **Applicant** | : Ty Warner | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7617899 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,345 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/28/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1354** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OFFICE OF PETITIONS

In re Application of

Richard H. Wyman

Application No. 11/027,366

Filed: December 30, 2004

Attorney Docket No. 1614US02

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed November 5, 2008. This is also a decision on the petition under 37 CFR 1.137(b), filed in the alternative.

The petition under 37 CFR 1.181 is **dismissed**[1].

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

*TREATMENT UNDER 37 CFR 1.181*

This application was held abandoned after no reply was received to the communication mailed February 4, 2008. A review of the application file history reveals that a non-final Office action was mailed September 13, 2007, allowing a shortened statutory period for reply of three months from its mailing date. A response was filed on January 14, 2007. By a communication mailed February 4, 2008, petitioner was informed that the response of January 14, 2007, was not fully responsive to the non-final Office action. The communication mailed February 4, 2008, did not expressly provided a period for response thereto. A Notice of Abandonment was mailed September 5, 2008, indicating that no response to the communication mailed February 4, 2008, was received.

The instant petition was filed on February 5, 2008. Petitioner maintains that the holding of abandonment should be withdrawn because the communication mailed February 4, 2008, did not set a period for response and makes no demand for a response. Petitioner requests that the communication mailed February 4, 2008, be deemed a Notice of Non-Responsive Reply and that the date for response thereto be measured from the date of filing of the instant petition.

Petitioner's request cannot be granted. It is noted that the Examiner Victor Kostak determined that the response filed January 14, 2007, was not responsive to the non-final Office action. Further consultation with Examiner Kostak reveals that Examiner Kostak intended the notice of February 4, 2008, to a Notice of Non-Responsive reply. In such case, the provisions of 37 CFR 1.135 apply, which state in pertinent part, that:

[1] This decision was reached in consultation with the supervisory staff of the Office of Petitions.

> (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.

The above-cited rule makes clear that applicants are required to file a complete and proper reply to an Office action within the allowable period in order to save the application from abandonment. It is noted that it is left to the examiner's discretion as to whether to allow applicant the additional period in which to file a complete and proper reply. Thus, the examiner could have made no further requirements after the improper reply filed January 14, 2007, and allowed the application to go abandoned without further indication. In this case, however, the examiner determined that the reply of January 14, 2007, was not responsive and issued a notice informing applicant of the same. In the ordinary case, such a notice would indicate that the applicant is given an extendable period for reply of one-month from the mailing date of the notice in which to provide a response. See MPEP 710.01. While the failure of the examiner to indicate that a one-month period applied to the February 4, 2008, notice, such did not remove the burden of the applicant make reasonable efforts to conclude the prosecution of the application. It is further noted that if, as in this case, no period for response is set forth in a notice, 35 U.S.C. 133 provides that:

> [u]pon 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.

Accordingly, applicant was still responsible for providing a response within the six month period after the mailing of the February 4, 2008, notice. Even after being notified that the response of January 14, 2007, was improper, applicant failed to file a complete response or contact Examiner Kostak for further clarification of the requirements of the February 4, 2008, notice. The holding of abandonment was properly imposed because a complete and proper reply to the non-final Office action was not filed and no reply was filed to the examiner's notification that the reply of January 14, 2007, was non-responsive. The petition is dismissed, accordingly.

*TREATMENT UNDER 37 CFR 1.137(b)*

The petition under 37 CFR 1.137(b) is granted.

Deposit account 13-0017 will be charged $1,620.00.

11/027,366

The application will be directed to Technology Center GAU 2622 for further processing including review of the amendment filed November 5, 2008.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 10/9/07

TO SPE OF : ART UNIT 2863

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/027382 Patent No: 7209865 B2

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

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

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

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

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

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

**Thank You For Your Assistance**

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

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

**Comments:** The ~~third~~ fourth proposed change (Column 18 line 67 i.e. claim 25 line 28) is not to be made. This error does not exist in the above mentioned Patent. All other changes are approved.

John Barlow
Supervisory Patent Examiner
Technology Center 2800

SPE

2863
Art Unit

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1000 EAGLE GATE TOWER
SALT LAKE CITY UT 84111

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **GUENTER**, et al. | : | |
| Application No. 11/027,383 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 15436.678 | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed April 25, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes an affidavit from James R. Biard attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Monica A.Graves at 571-272-7253.

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

The application is being forwarded to the Technology Center Art Unit 2828 for action on the merits commensurate with this decision.

David Bucci
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: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Randolf Werner | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593917 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,387 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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GENERAL ELECTRIC COMPANY
GE AVIATION
ONE NEUMANN WAY MD F16
CINCINNATI, OH 45215

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Suresh Subramanian | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7597838 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/06/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,403 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **906** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 |
|---|---|---|---|---|---|---|---|
| 11/027,404 | 12/30/2004 | 1762 | 1280 | 60244US002 | | 23 | 2 |

**CONFIRMATION NO. 7301**

**CORRECTED FILING RECEIPT**

*OC000000018335402*

32692
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Date Mailed: 03/21/2006

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)**

Rudolf J. Dams, Antwerp, BELGIUM;
Michael S. Terrazas, Prescott, WI;
George G.I. Moore, Afton, MN;

**Power of Attorney:** The patent practitioners associated with Customer Number **32692**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/09/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,404**

**Projected Publication Date:** 07/06/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Compositions containing C4-swallow tail silanes .

**Preliminary Class**

427

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

**GRANTED**

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

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR

1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Jason Kaufman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7665641 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,407 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/29/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **207** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**3M INNOVATIVE PROPERTIES COMPANY**
**P.O. BOX 33427**
**ST. PAUL MN 55133-3427**

| | | |
|---|---|---|
| In re Application of | : | |
| Rudolf J. Dams et al | : | |
| Application No. 11/027,410 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 60243US002 | : | |

This is a decision on the petition, filed July 25, 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 July 19, 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 1751 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).

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/21/08

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/027410** Patent No.: **7160850**

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:** _____

SPE

1796
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/027,430 | 12/29/2004 | Charles E. Bernasconi | 1913-1-6 |

**CONFIRMATION NO.**
6064

GRAYBEAL, JACKSON, HALEY LLP
155 - 108TH AVENUE NE
SUITE 350
BELLEVUE WA 98004-5901

Date Mailed: March 1, 2006

## Decision Dismissing Petition under 37 CFR 1.138(c)

*The declaration of express abandonment will not be recognized*

This is in response to the petition under 37 CFR 1.138(c), for express abandonment to avoid publication of the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

1. ☐ The petition under 37 CFR 1.138(c) was not filed in sufficient time to permit the appropriate officials to recognize the abandonment and remove the application from the publication process.

2. ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

3. ☑ The Application was published in compliance with 35 U.S.C. 122(b), and it is available on the USPTO web site at http://www.uspto.gov/patft/index.html.

The application **has/will be published** as scheduled.

Telephone inquiries should be directed Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Barbara J. Debnam
Office of Patent Publication
Pre-Grant Publication Division

Rev. 10/01

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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Wonill Ha | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7645626 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,436 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1165** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CRAWFORD MAUNU PLLC
1150 NORTHLAND DRIVE, SUITE 100
ST. PAUL, MN 55120

Mail Date: 05/18/2010

**Applicant** : Wonill Ha
**Patent Number** : 7645626
**Issue Date** : 01/12/2010
**Application No** : 11/027,436
**Filed** : 12/30/2004

: 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 **1201** 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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**CLIENT 21058**
**C/O DARBY & DARBY P.C.**
**P.O. BOX 770**
**CHURCH STREET STATION**
**NEW YORK, NY 10008-0770**

**COPY MAILED**

AUG 2 5 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Mark ROTH, et al | : | |
| Application No. 11/027,470 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 21058/1208366-US1 | : | 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 13, 2009.

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

A review of the file record indicates that the power of attorney to Darby & Darby P.C., has been revoked by the assignee of the patent application on August 19, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

Telephone inquires concerning this decision should be directed to undersigned at 571-272- 6735.

/Diane Goodwyn/
Petitions Examiner
Office of Petitions

cc: INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95054

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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**MARIE COLLAZO**
**DARBY & DARBY**
**P.O. BOX 770**
**CHURCH STREET STATION**
**NEW YORK, NY 10008-0770**

MAILED

SEP 14 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mark ROTH, et al | : | |
| Application No. 11/027,470 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 043395-0378038 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed September 2, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that Marie Collazo and the attorneys associated with Customer No. 07278, as indicated in the request, do 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 first copied address below until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6735.

/Diane Goodwyn/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN, VA 22102

cc: INTEL CORPORATION
2200 MISSION COLLEGE BLVD.
SANTA CLARA, CA 95054

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**HELLER EHRMAN LLP**
**4350 LA JOLLA VILLAGE DRIVE, 7TH FLOOR**
**SAN DIEGO, CA 92122**

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SEP 2 6 2008

**OFFICE OF PETITIONS**

In re Application of
**KIMMEL,** Mark et al.
Application No. 11/027,499
Filed: December 29, 2004
Attorney Docket No. **STA-0101**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 25, 2008.

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

A review of the file record indicates that the power of attorney to HELLER EHRMAN LLP has been revoked by the assignee of the patent application on August 14, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **GOODWIN PROCTER LLP**
**ATTN: PATENT ADMINISTRATOR**
**135 COMMONWEALTH DRIVE**
**MENLO PARK CA 94025-1105**

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HANLEY, FLIGHT & ZIMMERMAN, LLC
20 N. WACKER DRIVE
SUITE 4220
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of
Jeong Ho Park
Application No. 11/027,524
Filed: December 30, 2004
Attorney Docket No. 20063/640146

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed March 21, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, instead of the presently accorded date of December 31, 2004.

Petitioner maintains that the application was deposited in Express Mail service with the U. S. Postal Service, on December 30, 2004. However, the USPS incorrectly entered the "date-in" as December 31, 2004. Pursuant to 37 CFR 1.10(d), applicant petitions the Commissioner to accord a filing date for the above-identified application as of the actual date of deposit with the USPS. In support, petitioners provided, inter alia, a copy of the Express Mail label, receipt No. EV558610066US and a copy of the USPS Track/Confirm record for the package in question. It is noted that the transmittal letter found in the file includes the same Express Mail receipt number.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day

> of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. Any statement submitted in support of such a showing pursuant to this paragraph must be a verified statement if made by a person other than an employee of the USPS or a practitioner as defined in ' 10.1(r) of this chapter.

Preliminarily, it is concluded that the petition was filed promptly within the meaning of §1.10(d)(1). The evidence of record further shows that the number of the "Express Mail" mailing label, EV558610066US, is on the correspondence of record presently accorded a filing date of December 31, 2004, and thus, was placed on the correspondence prior to the original mailing.

Finally, the USPS Track and Confirm record corroborates a "date-in" of December 30, 2004, as it shows that the "Express Mail" package bearing mailing label No. EV558610066US was accepted at the USPS on December 30, 2004.

The petition is GRANTED.

The application is being returned to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **December 30, 2004** and for issuance of a Corrected Filing Receipt.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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ROGER PITT
KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK NY 10022-6030

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DEC 0 4 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| David Michonski | : | |
| Application No. 11/027,530 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 0809125.101 | : | 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 4, 2006.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, " the attached copy of written instructions from an officer of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary

evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The request to withdraw less than all attorneys appointed by customer number 00545 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANTHONY H. HANDAL, ESQ.
BROWN RUDNICK, BERLACK, ISRAELS LLP
SEVEN TIMES SQUARE
NEW YORK, NY 10036

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A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614-2950

COPY MAILED

DEC 3 1 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Joon Bum Shim | : | |
| Application No. 11/027,533 | : | LETTER REGARDING |
| Filed: December 30, 2004 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. SUN-DA-184T | : | |

This is in response to the "COMMUNICATION REGARDING CORRECTION OF PATENT TERM ADJUSTMENT," filed August 22, 2007. Applicant discloses that there is an error in the patent term adjustment under 35 U.S.C. 154(b).

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

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero **(0)** days, including 68 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On June 14, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. This calculation included 50 days of applicant delay. Applicant disclose that a period of reduction of 24 days should have been entered pursuant to 37 CFR §1.704(c)(7) for applicant's submission on June 29, 2006 of a supplemental amendment.

A review of the application history confirms an error. A period of reduction of 6 days was entered for applicant delay in correcting the omission in the amendment filed June 6, 2006 (See Notice of Non-Compliant Amendment mailed June 12, 2006). However, the amendment correcting the omission was actually received in the Office on June 30, 2006 (not June 12, 2006 as used in the calculation or June 29, 2006 as noted in this request for review of the patent term adjustment). 37 C.F.R. §1.704(c)(7) provides that a period of reduction is entered for:

> Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

Thus, the period of reduction is 24 days counting the number of days in the period beginning on June 7, 2006, the day after the first amendment was filed, and ending on June 30, 2006, the date that the amendment correcting the omission was filed. Accordingly, the period of reduction of 6 days has been removed and a period of reduction of 24 days has been entered in association with this delay.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days, including 0 days of Office delay and 68 days of applicant delay.

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

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM Screen

Day : Thursday
Date: 12/20/2007

PALM INTRANET

Time: 19:57:15

| PTA Calculations for Application: 11/027533 | | | |
|---|---|---|---|
| Application Filing Date: | 12/30/2004 | PTO Delay (PTO): | 0 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 50 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 0 |
| PTO Delay Adjustment: | -18 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 64 | 12/20/2007 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 24 | |
| 63 | 12/20/2007 | ADJUSTMENT OF PTA CALCULATION BY PTO | 6 | | |
| 55 | 06/14/2007 | MAIL NOTICE OF ALLOWANCE | | | |
| 54 | 06/13/2007 | ISSUE REVISION COMPLETED | | | |
| 53 | 06/13/2007 | DOCUMENT VERIFICATION | | | |
| 52 | 06/13/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 51 | 06/07/2007 | NOTICE OF ALLOWABILITY | | | |
| 50 | 06/04/2007 | DATE FORWARDED TO EXAMINER | | | |
| 49 | 05/23/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 48 | 03/06/2007 | MAIL NON-FINAL REJECTION | | | |
| 47 | 03/05/2007 | NON-FINAL REJECTION | | | |
| 46 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 45 | 02/27/2007 | DATE FORWARDED TO EXAMINER | | | |
| 44 | 01/26/2007 | RCE- AF PROCESSED | | | |
| 43 | 02/27/2007 | DATE FORWARDED TO EXAMINER | | | |
| 42 | 01/26/2007 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | 29 | 33 |
| 41 | 02/27/2007 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 40 | 01/26/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 39 | 01/26/2007 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 38.7 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 38 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 37 | 12/06/2006 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 36 | 12/05/2006 | ADVISORY ACTION (PTOL-303) | | | |
| 35 | 12/04/2006 | DATE FORWARDED TO EXAMINER | | | |
| 34 | 11/29/2006 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 33 | 09/28/2006 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 32 | 09/25/2006 | FINAL REJECTION | | | |
| 31 | 07/18/2006 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 06/12/2006 | RESPONSE AFTER NON-FINAL ACTION | | 6 | 24 |
| 29 | 06/12/2006 | MAIL NOTICE OF NON-COMPLIANT DRAWINGS FILED SEPARATELY | | | |
| 28 | 06/09/2006 | NOTICE OF NON-COMPLIANT DRAWINGS FILED SEPARATELY | | | |
| 27 | 06/12/2006 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT | | | |
| 26 | 06/06/2006 | NEW OR ADDITIONAL DRAWING FILED | | | |
| 25 | 06/09/2006 | DATE FORWARDED TO EXAMINER | | | |
| 24.1 | 06/06/2006 | INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION | | | |
| 24 | 06/06/2006 | RESPONSE AFTER NON-FINAL ACTION | | 15 | 20 |
| 23 | 06/06/2006 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 22 | 06/05/2006 | CORRESPONDENCE ADDRESS CHANGE | | | |
| 21 | 06/05/2006 | CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA) | | | |
| 20 | 02/22/2006 | MAIL NON-FINAL REJECTION | | | |
| 19 | 02/21/2006 | NON-FINAL REJECTION | | | |
| 18 | 12/30/2004 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 17 | 06/07/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 16 | 06/07/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 03/18/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 14 | 03/18/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 12/30/2004 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 12 | 12/30/2004 | REFERENCE CAPTURE ON IDS | | | |
| 11.7 | 12/30/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 11 | 12/30/2004 | INFORMATION DISCLOSURE STATEMENT (IDS) | | | |

| | | | | | |
|---|---|---|---|---|---|
| | | FILED | | | |
| 10 | 02/22/2005 | APPLICATION RETURN FROM OIPE | | | |
| 9 | 02/23/2005 | APPLICATION IS NOW COMPLETE | | | |
| 8 | 02/22/2005 | APPLICATION RETURN TO OIPE | | | |
| 7 | 02/22/2005 | APPLICATION RETURN FROM OIPE | | | |
| 6 | 02/22/2005 | APPLICATION RETURN TO OIPE | | | |
| 5 | 02/22/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 4 | 02/22/2005 | APPLICATION IS NOW COMPLETE | | | |
| 3 | 02/09/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 02/05/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 12/30/2004 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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

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3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Terrence E. Cooprider | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7625605 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,542 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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Date Mailed: April 24, 2008

SENNIGER POWERS LLP
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

Applicant: Cheng
Appl. No.: 11/027,550
Filing Date: December 30, 2004
Title: RING BINDER MECHANISM SPRING BIASED TO A LOCKED POSITION WHEN RING MEMBERS CLOSE
Attorney Docket No.: WWSM 2527 (WW/NP0408)
Pub. No.: US 2006/0147253 A1
Pub. Date: July 6, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on December 12, 2007, for the above-identified application.

The request under 37 CFR 1.221(a) is DISMISSED.

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office 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.

The applicant did not supply a copy of the application in compliance with the Office electronic filing system, as required by 37 CFR 1.221(a) because **the Applicant submitted the papers as a "Document for an existing application", which are entered into the application file, and not as a "Pre-Grant Publication" submission**. The request for republication does not comply with the electronic filing system requirements, thus republication will not take place.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a Pre-Grant publication submission.

Any questions or requests 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

Telephone inquiries regarding this correspondence should be directed to The Office of Data Management at 571-272-4200.

Tammy J. Koontz

Tammy J. Koontz
Program & Management Analyst
Office of Data Management

Adjustment date: 04/24/2008 DTERRY 11027550
12/12/2007 INTEFSW 00004226 191345
01/12/2004 300.00 CR

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KENNETH J. LUKACHER
SOUTH WINTON COURT
3136 WINTON ROAD SOUTH, SUITE 301
ROCHESTER NY 14623

| | |
|---|---|
| In re Application of:<br>Regelski, Laura<br>Serial No. 11/027,560<br>Filed: Dec. 30, 2004<br>Docket: 20053.000201<br>Title: METHOD AND APPARATUS FOR DRYING AND STORING DELICATE CLOTHING | DECISION ON PETITION UNDER 37 CFR § 1.181 |

This is a decision on the Letter Submitting Duplicate Copy of Timely Filed Response filed on Sep. 18, 2007. The letter is being considered as a petition pursuant to 37 CFR 1.181(a). No fee is required. The petitioner requests withdrawal of the holding of abandonment.

The petition is **GRANTED.**

The present application was held abandoned for failure to timely respond to the Non-Final Rejection mailed on May 10, 2006 which set forth a three-month period for reply. Notice of abandonment was mailed on Nov. 14, 2006.

Petitioner asserts that a timely response to the Non-Final Rejection was submitted on Nov. 9, 2006. The petitioner has supplied a copy of the amendment as well as a copy of certificate of mail dated Nov. 9, 2006 and an acknowledgement post-card receipt indicating a receipt date of Nov. 9, 2006. There was a petition of three-month extension of time fee paid according to USPTO Palm system. .

As the petitioner has provided convincing evidence that a timely reply to the Non-Final Office action was submitted on Nov. 9, 2006, 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 Nov. 14, 2006 is in error and is hereby vacated. The holding of abandonment is withdrawn. This application is being forwarded to the examiner in Art Unit 3749 for appropriate action.

Frederick R. Schmidt, Director
Technology Center 3700

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FAEGRE & BENSON LLP
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2200 WELLS FARGO CENTER
90 SOUTH 7TH STREET
MINNEAPOLIS, MN 55402-3901

COPY MAILED

JAN 19 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Richard D. Terpstra et al | : | |
| Application No. 11/027,564 | : | DECISION GRANTING PETITION |
| Filed: December 31, 2004 | : | UNDER 37 CFR 1.137(f) |
| Attorney Docket No. 74120-310340 | : | |

This is a decision on the petition, filed October 3, 2005, to revive the instant nonprovisional application under the unintentional provisions of 37 CFR 1.137(f).

The petition is **GRANTED**.

This application is the subject of an application filed in a foreign country on May 3, 2005. However, the U.S. Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

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

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

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

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

(3) a statement that the entire delay in filing the required reply from the due date of the reply until

the filing of a grantable petition was unintentional.

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of January 19, 2006 was mailed on October 7, 2005.

Any inquiries concerning this decision may be directed to the undersigned at 571-272-3218.

This application is being forwarded to Technology Center Art Unit 2665 for examination in due course.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Klaus Herter | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7606162 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/20/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,565 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1330** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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** | : Gero Auhagen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657600 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,569 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1195** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 |
|---|---|---|---|---|---|---|---|
| 11/027,570 | 12/29/2004 | 3644 | 1580 | BING-1-1136 | 5 | 25 | 4 |

**CONFIRMATION NO. 1476**

**CORRECTED FILING RECEIPT**

*OC000000016370016*

46020
BLACK LOWE & GRAHAM PLLC
701 FIFTH AVENUE, SUITE 4800
SEATTLE, WA 98104

Date Mailed: 06/24/2005

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)**

Jan A. Kordel, Redmond, WA;
Richard B. Tanner, Seattle, WA;
Ian C. Burford, Duvall, WA;
Victor A. Munsen, Woodinville, WA;
Daniel E. McGinty, Redmond, WA;
Scott N. Rampton, Bothell, WA;
Bruce R. Fox, Everett, WA;
James M. Kelly, Marysville, WA;
Miles O. Johnson, Brier, WA;

**Power of Attorney:** The patent practitioners associated with Customer Number **46020**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**Projected Publication Date:** To Be Determined - pending completion of Security Review

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Aircraft wing composed of composite and metal panels

**Preliminary Class**

244

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

**GRANTED**

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the

national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

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

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United States Patent and Trademark Office
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INTELLECTUAL PROPERTY MANAGEMENT
BOEING MANAGEMENT COMPANY
P.O. BOX 2515
MAIL CODE 110-SD54
SEAL BEACH, CA 90740-1515

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Kondala R. Saripalli | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7607594 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,572 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1076** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SOFER & HAROUN, L.L.P.
Suite 910
317 Madison Avenue
New York, NY 10017

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AUG 0 6 2007
OFFICE OF PETITIONS

In re Application of :
Bates, et al. :
Application No.: 11/027,576 : ON PETITION
Filed: December 30, 2004 :
Attorney Docket No: 886-145 :

This is in response to the petition under 37 CFR 1.137(b) filed May 4, 2007.

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

On October 21, 2005, a "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") was mailed by the Office allowing a two-month period for reply. Extension of time were available pursuant to 37 CFR 1.136(a). The Notice required an proper oath or declaration, $130.00 surcharge, payment of the filing fee, and replacement drawings. On November 18, 2005, a response was filed, but it did not include replacement drawings. The application became abandoned on December 22, 2005. A Notice of Abandonment was mailed on September 13, 2006.

The replacement drawings filed May 4, 2007, is noted and made of record.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/027,578 | 12/29/2004 | 3623 | 0.00 | 017900-005200US | 8 | 11 | 1 |

**CONFIRMATION NO. 1518**

**CORRECTED FILING RECEIPT**

*OC000000015622061*

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

Date Mailed: 03/31/2005

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)**

Gunther Rothermel, Rauenberg/Malschenberg, GERMANY;
Dirk Wodtke, Aptos, CA;

**Assignment For Published Patent Application**

SAP AG, Walldorf, GERMANY

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/11/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,578**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

System supported optimization of event resolution

**Preliminary Class**

705

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

**GRANTED**

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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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Alexandria, VA 22313-1450
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| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|---|---|---|---|
| 11/027,582 | 12/30/2004 | Horst Haefner | 4804 |

FASSE PATENT ATTORNEYS, P.A.
P.O. BOX 726
HAMPDEN ME 04444-0726

DATE MAILED: April 18, 2006

**DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)**
*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d) filed on March 29, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded. A notice of abandonment will be mailed in due course.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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**DLA PIPER LLP (US)**
**2000 UNIVERSITY AVENUE**
**EAST PALO ALTO, CA 94303-2248**

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JAN 1 3 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Reissue Application of | : | |
| Mark Garrett et al. | : | |
| Reissue Application No. 11/027,589 | : | DECISION ON PETITION |
| Filed: December 31, 2004 | : | |
| Original Patent No. 6,760,511 | : | |
| Issue Date: July 6, 2004 | : | |
| Attorney Docket No. C2393-1104 | : | |

This is a decision on the petition under 37 CFR 1.378(c), filed August 14, 2008, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

Petitioner has demonstrated to the satisfaction of the Director that the delay in timely paying the maintenance fee was unintentional.

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

for David Bucci
Petitions Examiner
Office of Petitions

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SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

COPY MAILED

AUG 25 2005

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andrews et al. | : | |
| Application No. 11/027,595 | : | DECISION REFUSING |
| Filed: January 2, 2005 | : | STATUS UNDER |
| Title of Invention: METHODS AND | : | 37 CFR 1.47 |
| SYSTEMS TO EFFECT COMPREHENSIVE | : | |
| CUSTOMER RELATIONSHIP MANAGEMENT | : | |
| SOLUTIONS | : | |

This is in response to a Petition Under 37 CFR § 1.47(a), filed July 21, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **dismissed**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)", and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 2, 2005, without an oath or declaration. In response, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on February 17, 2005, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition and avers that the nonsigning inventors were sent Declarations and Powers of Attorney on March 24, 2005, May 23, 2005, and May 31, 2005, but Applicant has yet to hear anything from the nonsigning inventors.

Applicable Law

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 to item (1),

> A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 CFR 1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

MPEP 409.03(d)

**Conclusion**

Applicant must present a copy of the application papers to the inventors.

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

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

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

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

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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LOS ANGELES, CA 90025-1030

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DEC 0 6 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Andrews et al. | : | |
| Application No. 11/027,595 | : | DECISION GRANTING |
| Filed: January 2, 2005 | : | STATUS UNDER |
| Title of Invention: METHODS AND | : | 37 CFR 1.47 |
| SYSTEMS TO EFFECT COMPREHENSIVE | : | |
| CUSTOMER RELATIONSHIP MANAGEMENT | : | |
| SOLUTIONS | : | |

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(a), filed November 28, 2005, to allow the other inventor(s) to proceed with the application on behalf of himself or herself and the nonsigning inventor(s).

The petition is **granted**.

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

Petitioner has shown that the non-signing inventor, Michael Resnick, refuses to join in the application.

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

The petition fee, $200.00 has been charged to Applicant's deposit account as authorized in the instant petition.

The application file is being returned to the Office of Initial Patent Examination for continued processing.

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

Derek L. Woods
Attorney
Office of Petitions

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MICHAEL RESNICK
188 WINDING WAY
SAN CARLOS, CA 94070

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DEC 06 2005

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Andrews et al. | : | |
| Application No. 11/027,595 | : | LETTER |
| Filed: January 2, 2005 | : | |
| Title of Invention: METHODS AND | : | |
| SYSTEMS TO EFFECT COMPREHENSIVE | : | |
| CUSTOMER RELATIONSHIP MANAGEMENT | : | |
| SOLUTIONS | : | |

Dear Mr. Resnick:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3232. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Derek L. Woods
Petitions Attorney
Office of Petitions

cc: BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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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 |
|---|---|---|---|---|---|---|---|
| 11/027,595 | 12/31/2004 | 3623 | 1730 | 005306.P124 | 9 | 17 | 6 |

**CONFIRMATION NO. 9288**

**CORRECTED FILING RECEIPT**

*OC000000017952020*

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 01/31/2006

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)**

Keith Andrews, Victoria, CANADA;
Mary Ballard, San Francisco, CA;
Dan Braunm, Key West, FL;
Dan Crowley, San Mateo, CA;
Sandy Dondici, Sewell, NJ;
Jennifer Drayton, Oakland, CA;
Xan Garlick, Ridgefield, CT;
Paul Green, Canton, GA;
Krishna Kilambi, Cupertino, CA;
David Landry, San Francisco, CA;
Peter Marshall, Irvine, CA;
Eileen McPartland, Morris Township, NJ;
Michael Moore, Sonoma, CA;
Scott Mulder, Wellesley, MA;
Mike Murphy, Clayton, CA;
Daniel Poor, Woodbury, CT;
Michael Resnick, San Carlos, CA;
Dave Roberts, Atlanta, GA;
Rick Shaw, Pasadena, CA;
Mark Stevens, Atlanta, GA;
Scott Springgate, Libertyville, IL;
David Svatik, Copper Canyon, TX;

**Power of Attorney:** The patent practitioners associated with Customer Number **08791**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/17/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,595**

**Projected Publication Date:** 07/06/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Methods and systems to effect comprehensive customer relationship management solutions

**Preliminary Class**

705

## 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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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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Blakely Sokoloff Taylor & Zafman
12400 Wilshire Boulevard
Seventh Floor
Los Angeles, CA 90025-1030

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SEP 25 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Keith Andrews et al. | : | |
| Application No. 11/027,595 | : | DECISION ON PETITION |
| Filed: December 31, 2004 | : | TO WITHDRAW |
| Attorney Docket No. 005306.P124 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2006.

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

A review of the file record indicates that the power of attorney to the attorney(s) and/or agent(s) associated with the firm Blakely, Sokoloff, Taylor & Zafman LLP have been revoked by the assignee of the patent application on September 11, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

for David Bucci
Petitions Examiner
Office of Petitions

cc: **CSA LLP**
4807 Spicewood Springs Road
Bldg. 4, Suite 201
Austin, TX 78759

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APR 13 2005

Timothy D. Bennett
BROUSE MCDOWELL, LPA
388 S. Main Street
Suite 500
Akron, OH 44311-4407

| | | |
|---|---|---|
| In re application of | : | **DECISION ON PETITION** |
| Eric Blashford | : | **TO MAKE SPECIAL** |
| Application No. 11/027,596 | : | **(INFRINGEMNT)** |
| Filed: January 03, 2005 | : | |
| For: FLIP DOOR FOR LIFTGATE WHEN USED WITH PIVOTABLE DOORS OF A TRAILER | | |

This is a decision on the petition under 37 C.F.R § 1.102(d) filed January 03, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the procedure set forth in M.P.E.P. § 708.02, item II: Infringement.

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

The petition filed January 03, 2005 meets all of the requirements above and, therefore, the petition is **GRANTED**.

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

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

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

SNM/pav: 04/06/05

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

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MAR 0 7 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| John Vander Horst | : | |
| Application No. 11/027,614 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 040315-000110US | : | 37 CFR 1.102(c)(1) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 23, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from Inventor John Vander Horst stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 2872 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**MOTOROLA INC.**
**600 NORTH US HIGHWAY 45**
**W4 – 39Q**
**LIBERTYVILLE IL 60048-5343**

MAILED

JUN 02 2010

OFFICE OF PETITIONS

In re Application of
Jonathan R. Engelsma et al
Application No. 11/027,619
Filed: December 30, 2004
Attorney Docket No. CS25387ML/10-321

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 12, 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 the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed December 3, 2009, 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 the Office of Data Management to be processed into a patent.

/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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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/027,627 | 12/30/2004 | 2661 | 1330 | 30320/19247 | 6 | 20 | 4 |

**CONFIRMATION NO. 5708**

**UPDATED FILING RECEIPT**

*OC000000016047277*

04743
MARSHALL, GERSTEIN & BORUN LLP
233 S. WACKER DRIVE, SUITE 6300
SEARS TOWER
CHICAGO, IL 60606

Date Mailed: 05/18/2005

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)**

Alexander Supalov, Erftstadt, GERMANY;

**Assignment For Published Patent Application**

INTEL CORPORATION, Santa Clara, CA

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/08/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,627**

**Projected Publication Date:** 07/06/2006

**Non-Publication Request:** No

**Early Publication Request:** No

BEST AVAILABLE COPY

**Title**

Method and apparatus for managing an event processing system

**Preliminary Class**

370

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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DAVID N TRAN
INTEL CORPORATION SC4-202
2200 MISSION COLLEGE BLVD
SANTA CLARA CA 95052

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JUL 25 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ravichandran, et al. | : | DECISION ACCORDING STATUS |
| Application No. 11/027,628 | : | UNDER 37 CFR 1.47(a) |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. P20770 | : | |

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

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

The above-identified application was filed on December 30, 2004, without an executed oath or declaration. Accordingly, on February 11, 2005, the Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an oath or declaration, together with a surcharge for its late filing. This Notice set an extendable period for reply of two months.

In reply, applicants filed the instant petition on June 16, 2005, made timely by obtaining a two month extension of time and including a Certificate of Mailing dated June 13, 2005.[1]

---

[1] June 11th and June 12th fell on a Saturday and Sunday, respectively. See 37 CFR 1.7(a).

Accompanying the petition was a declaration executed by inventor Krishnan Ravichandran, with the signature block for inventor David B. Chung left blank.

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

On petition, Rule 47 applicant has established that inventor Chung was presented with a copy of the application papers. According to applicant, as of the date of the instant petition, no executed declaration from Chung has been received. While Rule 47 applicant has not provided a statement of the last known address of Chung, that address is presumed to be the address listed on the declaration.

On petition, Rule 47 applicant has satisfied the requirements of 37 CFR 1.47(a). The declaration submitted with the petition has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby <u>accorded Rule 1.47(a) status</u>.

Pursuant to 37 CFR 1.47(c), this Office will forward notice of this application's filing to the last known address provided on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The petition fee of $200, two month extension of time fee of $450, and $130 surcharge for late filing of the declaration have been charged to Deposit Account No. 50-0221.

The application file is being forwarded to Group Art Unit 2676 for docketing and examination in due course.

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

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DAVID B CHUNG
22352 BAHL ST
CUPERTINO CA 95014

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JUL 25 2005

**OFFICE OF PETITIONS**

In re Application of :
Krishnan Ravichandran, David B. Chung :
Application No. 11/027,628 :
Filed: December 30, 2004 :
Title: Selective Addressing Capable Display : LETTER

Dear Mr. Chung:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Cliff Congo at (571)272-3207. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

David N. Tran
Intel Corporation SC4-202
2200 Mission College Blvd
Santa Clara, CA 95052
(408)765-4692

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Commissioner for Patents
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P.O. Box 1450
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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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MAR 2 3 2005

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Kang, et al. | : DECISION GRANTING |
| Application No. 11/027,631 | : PETITION |
| Filed: December 27, 2004 | : |
| Attorney Docket No. 51876.P779 | : |

This is a decision on the petition filed March 1, 2005 (certificate of mailing date February 22, 2005 under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of December 29, 2004, rather than the presently accorded filing date of December 27, 2004.

Petitioners request the later filing date on the basis that the application was deposited in Express Mail service on December 29, 2004, pursuant to the requirements of 37 CFR 1.10. The petition is accompanied by a copy of Express Mail label no. EV372843684US that lists the date-in as December 27, 2004. The same Express Mail label number is found on the original application papers. Ted Chang, Offices Services Clerk at the Blakely, Sakoloff firm, states in an enclosed declaration that he deposited a package bearing Express Mail label no. EV372843684US in Express Mail service on December 29, 2004. The declaration references an attached Express Mail Log that contains an entry showing a package bearing Express Mail label no. EV372843684US was deposited on December 29, 2004 at 6:19 pm at the Alla Vista Post Office, which has a last pickup time of 8:00 pm. The Mail Log was generated on December 30, 2004.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and
>
> (3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS."

The petition filed March 1, 2005 (certificate of mailing date February 22, 2005), is accompanied by the corroborating evidence required by the rule. Accordingly, the petition is granted. No petition fee has been or will be charged in connection with this matter.

The application is being returned to the Office of Initial Patent Examination for correction of the filing date to **December 29, 2004** and the mailing of a corrected filing receipt.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Brian Mann | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616991 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,646 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **539** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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United States Patent and Trademark Office
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/027,655 | 12/30/2004 | Kazuhiko Mizuno | 60418US002 | 8336 |

7590 03/03/2008
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

| EXAMINER |
|---|
| BASHORE, ALAIN L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1792 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/03/2008 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



FORM PET651G (Rev. 08/07)

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/027,655 | 12/30/2004 | Kazuhiko Mizuno | 60418US002 | 8336 |

7590 03/03/2008
3M INNOVATIVE PROPERTIES COMPANY
PO BOX 33427
ST. PAUL, MN 55133-3427

| EXAMINER |
|---|
| BASHORE, ALAIN L |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1792 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 03/03/2008 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 03/04/2008 KKING1
01/06/2005 GWORDOF1 00000065 133723 11027655
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FORM PET651G (Rev. 08/07)

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APR 2 3 2009

OFFICE OF PETITIONS

In re Application of

Braunecker, et al.

Application No. 11/027,667

Filed: December 28, 2004

Attorney Docket No. 1443.210US1

DECISION ON PETITION

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181(a), filed April 2, 2009.

The petition is **granted**.

This application was held abandoned October 26, 2008, after no reply was received to the non-final Office action mailed July 25, 2008. 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 October 26, 2008. A Notice of Abandonment was mailed February 2, 2009. The instant petition was filed on April 2, 2009. Petitioner maintains that the notice of July 25, 2008, was never received. Petitioner also notes that a request to change power of attorney and correspondence address was filed on March 6, 2008, but not entered. The notice of July 25, 2008, was, therefore, sent to the wrong address. A review of the application file history confirms this assertion.

When, as in this case petitioner is arguing that an Office communication was not received, petitioner must establish non-receipt of the Office communication in accordance with section 711.03(c) of the *Manual of Patent Examining Procedure* that requires the following:

> To minimize costs and burdens to practitioners and the Office, the Office has modified the showing required to establish nonreceipt of an Office action. The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

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

Petitioner has met the burden of proof as established by Section 711.03(c)(II) of the MPEP. The holding of abandonment is, therefore, withdrawn.

The application file is being forwarded to Technology Center 3700, GAU 3735 for further processing that may include remailing the non-final Office action and resetting of the period for reply. It is noted that a response to the non-final Office action was filed on April 2, 2009. The examiner may determine that remailing of the non-final Office action is not necessary and simply consider the amendment filed April 2, 2009.

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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DENNEMEYER & COMPANY LTD.
REGENT HOUSE
HEATON LANE
STOCKPORT, CHESHIRE
ENGLAND SK4 1BB,
UNITED KINGDOM

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Johannes Platzek | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626035 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,671 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1183** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Sadler, Breen, Morasch & Colby, ps
422 W. Riverside Ave, Suite 424
Spokane, WA 99201

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Semion M. Sheraizin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639892 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,674 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **963** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NATH & ASSOCIATES
112 SOUTH WEST STREET
ALEXANDRIA VA 22314

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JUL 24 2008

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| In re Application of | : | |
| Reuveni et al. | : | DECISION ON PETITION |
| Application Number: 11/027678 | : | TO WITHDRAW HOLDING OF |
| Filing Date: 01/03/2005 | : | ABANDONMENT |
| Attorney Docket Number: 26488U | : | |
| | : | |

This is a decision on the "PETITION TO REVIVE UNDER MPEP § 711.03(a) AND 37 C.F.R. 1.181(a)," filed on May 21, 2008, which is treated as a petition to withdraw the holding of abandonment in the above-identified application.

The application was held abandoned for failure to timely reply to the Office action mailed on November 19, 2007, which set a one (1) month shortened statutory period for reply. On May 13, 2008, Notice of Abandonment was mailed.

Petitioners assert that a proper response was in fact timely filed in the form of an amendment. In support of the petition, petitioners submitted a copy of a date-stamped itemized receipt acknowledging receipt of, inter alia, a petition for a three (3) month extension of time and an amendment. The receipt shows an "Office date" stamp of December 18, 2007, and identifies the application by application number, filing date, first named inventor, and invention title. The receipt itemizes the filing of, *inter alia*, a Supplemental Amendment Under 37 C.F.R. 1.111, and one (1) replacement drawing sheet.

Petitioners' response to the non-final Office action is not of record in the file and cannot be located. However, M.P.E.P. § 503 states, "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO." Accordingly, it is concluded that the reply to the non-final Office action was received in the Office but was not matched with the application file.

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

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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

MAILED

FEB 27 2009

OFFICE OF PETITIONS

In re Application of :
Bertelsen, et al. :
Application No. 11/027,705 :
Filed: December 30, 2004 :
Attorney Docket No. 2004-0617.01 :
For: METHODS FOR REDUCING DEFORMATIONS OF FILMS IN MICRO-FLUID EJECTION DEVICES

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 30, 2009, to revive the above-identified application.

This application became abandoned for failure to timely respond to the final Office action mailed June 2, 2008, which set an extendable three month period for reply. Accordingly, this application became abandoned on September 3, 2008. A Notice of Abandonment was mailed on January 22, 2009.

Applicants have submitted a RCE and required $810.00 fee and amendment in reply to the June 2, 2008 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the June 2, 2008 final Office action, and the $1,620.00 petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 1791 for consideration of the RCE and amendment filed on January 30, 2009.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Matthew Mengerink | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7587367 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,713 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/31/2004 | : 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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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/17/2010

**Applicant** : Matthew Mengerink
**Patent Number** : 7587367
**Issue Date** : 09/08/2009
**Application No** : 11/027,713
**Filed** : 12/31/2004

: 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 **785** 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. 050505

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(F/K/A WORKMAN NYDEGGER & SEELEY)
60 EAST SOUTH TEMPLE
1000 EAGLE GATE TOWER
SALT LAKE CITY, UT 84111

| | | |
|---|---|---|
| In re Application of: | : | |
| GUENTER *et al.* | : | DECISION ON PETITION |
| Serial No.: 11/027,717 | : | TO MAKE SPECIAL |
| Filed: December 30, 2004 | : | |
| Attorney Docket No.: 15436.680 | : | |
| For: **OPTIMIZING MIRROR REFLECTIVITY FOR REDUCING SPONTANEOUS EMISSIONS IN PHOTODIODES** | | |

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed April 25, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a statement from the applicant stating that James R. Biard is sixty-five (65) years of age or more.

Accordingly, the petition is GRANTED.

If the examiner can make this application special without prejudice to any possible interfering applications, and s/he should make a rigid search for such, s/he 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, s/he should consider such application simultaneously with this application and should state in the official letter of such application that s/he is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application become involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Jose Dees at (571) 272-1569.

Jose Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/027,740 | 12/29/2004 | 2127 | 1700 | 42P18128 | 3 | 34 | 3 |

**CONFIRMATION NO. 4894**

**CORRECTED FILING RECEIPT**

*OC000000015400550*

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

Date Mailed: 03/09/2005

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)**

Robert C. Knauerhase, Residence Not Provided;
Vijay Tewari, Residence Not Provided;
Scott H. Robinson, Residence Not Provided;
Mic Bowman, Residence Not Provided;
Milan Milenkovic, Residence Not Provided;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/08/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/027,740**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Method, apparatus and system for dynamic allocation of virtual platform resources

**Preliminary Class**

718

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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Paper No.

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

MAILED

SEP 22 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,462,459 | : | |
| Noa Zerangue | : | DECISION DISMISSING |
| Application No. 11/027,767 | : | REQUEST FOR |
| Issue Date: December 9, 2008 | : | RECONSIDERATION OF |
| Filed: December 30, 2004 | : | PATENT TERM ADJUSTMENT |
| Attorney Docket No. | : | UNDER 37 CFR 1.705 |
| 019282-002310US | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(d), filed on February 3, 2009. Patentee requests that the determination of patent term adjustment be corrected from four hundred eighty-four (484) days to eight hundred twenty-nine (829) days.

The request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent term adjustment determination under 35 U.S.C. § 154(b) of 484 days.

**BACKGROUND**

This application was filed on December 30, 2004. On August 13, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 484 days[1]. On December 9, 2008, the application matured into U.S. Patent No. 7,462,459, with a revised patent term adjustment of 484 days. The Office determined that the 345 days of Office

[1] 484 days of Office delay was reduced by 0 days of applicant delay for a patent term adjustment of 484 days. No request for reconsideration of this initial determination was filed.

delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 484 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the issuance of the patent. As such, 0 additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 0 days, the patent issued with a revised patent term adjustment of 484 days.

On February 3, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 829 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts

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

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

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

[3] As of the issuance of the patent on December 9, 2008, the application was pending three years and 345 days.

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

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

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

[5] A first Office action (restriction requirement) was not mailed until June 27, 2007, fourteen months and 484 days after the application filing date, December 30, 2004.

that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 0 days as these periods do not occur on the same day. Further, given the applicant delay of 0 days, patentee asserts entitlement to 829 (484 + 345) days of patent term adjustment.

**OPINION**

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[6] *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.

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

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

> 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

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

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the period during which the application was pending before the Office beginning on the application filing date under 35 U.S.C. 111(a), December 30, 2004, and ending on the date of issuance of the patent, December 9, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 101 days of patent term adjustment were accorded during the pendency of the application for Office delay. Pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b), 345 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 345 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 484 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 345 days and the 484 days is neither permitted nor warranted. 484 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 0 days of adjustment pursuant to § 1.702(b) for a total of the greater period of 484 days for Office delay.

**CONCLUSION**

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 484 days (484 days of Office delay - 0 days of applicant delay).

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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SCHWEGMAN, LUNDBERG
& WOESSNER/SAP
P.O. BOX 2938
MINNEAPOLIS, MN 55402

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**OFFICE OF PETITIONS**

In re Application of
Josef DIETL, et al
Application No. 11/027,768
Filed: December 30, 2004
Attorney Docket No. 09700.0049-00

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 11, 2007.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to SCHWEGMAN, LUNDBERG & WOESSNER/SAP, has been revoked by the assignee of the patent application on September 6, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record has been changed and the new correspondence address is the address indicated below.

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

April Wise
Petitions Examiner
Office of Petitions

cc: LISA A. DAMERON
FINNEGAN, HENDERSON,
FARABOW, GARRETT & DUNNER, LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

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

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Josef Dietl | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7669149 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,768 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **832** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HAHN LOESER & PARKS, LLP
One GOJO Plaza
Suite 300
AKRON, OH 44311-1076

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Hee Wong | : | |
| Application No. 11/027,772 | : | ON APPLICATION FOR |
| Filed: December 31, 2004 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. P04910C1 | : | |

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b) filed August 13, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is a minimum of six hundred eight (608) days, not four hundred eighty-two (482) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

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

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

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Telephone inquiries specific to this decision should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

Mail Date: 06/24/2010

| | | |
|---|---|---|
| **Applicant** | : Hee Wong | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7636562 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/027,772 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/31/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1204** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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**Foley Hoag, LLP**
**Patent Group, World Trade Center West**
**155 Seaport Boulevard**
**Boston, MA 02210**

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|---|---|---|
| In re Application of | : | |
| David A. Sinclair et al. | : | |
| Application No. 11/027,779 | : | DECISION ON PETITION |
| Filed: December 29, 2004 | : | TO WITHDRAW |
| Attorney Docket No. HMV-093.01 | : | 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 29, 2008.

The request is **APPROVED**.

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

The request was signed by Gregory J. Sieczkiewicz, on behalf of all attorneys/agents associated with customer number 58475. All attorneys/agents associated with customer number 58475 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 first signing inventor. A courtesy copy of this decision will be mailed to the address noted on the request. If you would like to receive future correspondence then the proper power of attorney documents must be submitted.

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: David A. Sinclair
8 Preston Road
West Roxbury, MA 02132

cc: John R. Van Amsterdam
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/027,779 | 12/29/2004 | David A. Sinclair | HMV-093.01 |

**CONFIRMATION NO. 7721**

**POWER OF ATTORNEY NOTICE**

58475
FOLEY HOAG, LLP
PATENT GROUP (w/HUV HMV)
155 SEAPORT BLVD.
BOSTON, MA 02210-2600

*OC000000030614015*

Date Mailed: 06/23/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/29/2008.

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

/kainabinet/

---

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

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SCHWEGMAN, LUNDBERG & WOESSNER/EBAY
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Andrew Millard Brown | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581112 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,783 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 2/15/08

**TO SPE OF** : **Technology Center** 1797

11/027816

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7287740 B2

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

**Thank You For Your Assistance**

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

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

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

**Comments:**

DUANE SMITH
SUPERVISORY PATENT EXAMINER

**SPE**

1797
**Art Unit**

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1047 EL CAMINO REAL
SUITE 201
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OCT 06 2008

OFFICE OF PETITIONS

In re Application of

Dennis S. Fernandez :

Application No. 11/027,819

: DECISION ON PETITION

Filed: December 29, 2004

:

Attorney Docket No. FERN-P015B

This is a decision on the petition under 37 CFR 1.137(b), filed August 25, 2008, 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 August 13, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on November 14, 2007. A Notice of Abandonment was mailed July 17, 2008.

The amendment filed August 25, 2008, is noted.

The application is being forwarded to Technology Center 3700, GAU 3765 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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**Motorola, Inc.**
**Law Department**
**1303 East Algonquin Road**
**3rd Floor**
**Schaumburg IL 60196**

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JUL 20 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Limin Wang et al. | : | |
| Application No. 11/027,869 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. D03001-07 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 5, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before March 13, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed December 13, 2007. Accordingly, the date of abandonment of this application is March 14, 2008. A Notice of Abandonment was mailed on June 18, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

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

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

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

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

cc: Larry T. Cullen
101 Tounament Drive
Horsham, PA 19044

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Mail Date: 04/22/2010

| | | |
|---|---|---|
| **Applicant** | : Cong Li | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7613875 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/03/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,870 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/29/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND, OR 97701

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| | | |
|---|---|---|
| In re Application of | : | |
| Patrick J. Ferguson | : | |
| Application No. 11/027,884 | : | ON PETITION |
| Filed: December 29, 2004 | : | |
| Attorney Docket No. 2900-35 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed on August 24, 2007, to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A Notice to File Missing Parts of Nonprovisional (Notice) was issued on February 18, 2005. On April 21, 2005, an oath/declaration, a $65 surcharge for the late filing, and two (2) sheets of replacement drawings containing Figures 1-10 were submitted in response to the Notice.

For some unknown reason, petitioner submitted the instant petition to revive the above application on August 24, 2007.

Since the response filed on April 21, 2005 contained a Certificate of Mailing under 37 CFR 1.8 dated for April 21, 2005, it is considered as timely submitted within two months from the mailing date of the Notice mailed on February 18, 2005. Accordingly, this application is not considered abandoned and the instant petition and $1,500 petition fee are unnecessary and petitioner can request a refund of this fee.

Additionally, 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 $2,160 extension of time fee submitted on August 24, 2007 was subsequent to the maximum extendable period for reply, this fee is also unnecessary and refundable.

Petitioner may request a refund of the above fees by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Should petitioner know of any reason why this application should be held abandoned, he must notify the Office immediately.

This application is being referred to Technology Center Art Unit 1791, for further processing.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/027,884 | 12/29/2004 | Patrick J. Ferguson | 2900-35 |

**CONFIRMATION NO. 8227**

**POA ACCEPTANCE LETTER**

29941
GLENN C. BROWN, PC
777 NW WALL STREET, SUITE 308
BEND, OR 97701

*OC000000028633941*

Date Mailed: 03/04/2008

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/24/2007.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

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

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/027,905 | 12/30/2004 | Mansoor Ali Khan Alicherry | Alicherry 16-8 (LCNT/1269 | 3308 |

46363 7590 01/08/2010
WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY, NJ 07702

| EXAMINER |
|---|
| WILSON, ROBERT W |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2475 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/08/2010 | PAPER |

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

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

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JAN 08 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

WALL & TONG, LLP/
ALCATEL-LUCENT USA INC.
595 SHREWSBURY AVENUE
SHREWSBURY NJ 07702

In re Application of: ALICHERRY et al.
Application No. 11027905
Filed: December 30, 2004
For: METHOD AND APPARATUS FOR PROVISIONING A HOP LIMITED PROTECTION PATHWAY IN A NETWORK

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

This is a decision on the petition filed December 2, 2009 under 37 CFR § 1.181 to invoke Supervisory Authority of the Director and require the Examiner to withdraw the finality of the rejection mailed October 2, 2009.

Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the final Office action mailed October 2, 2009. In the petition, Applicant's counsel stated that the finality of the Office action was premature and should be withdrawn because it is predicated on Applicants' amendments which were denied entry.

A review of the file revealed the following facts: A proposed amendment, in response to the Final Action mailed December 30, 2008, was filed February 26, 2009. An Advisory Action was mailed March 24, 2009 denying entry of the proposed amendment. A Notice of Appeal was filed March 30, 2009 followed by an Appeal Brief on July 16, 2009. Examiner subsequently decided to reopen prosecution and a new Final Rejection was mailed October 2, 2009. The new Final Rejection stated that Applicant's amendment necessitated the new ground(s) of rejection, but did not indicate that the amendment, after the first Final Rejection, filed February 26, 2009 was ever entered.

A review of the file indicated that no IDS was submitted to cause the new grounds of rejection and that the record did not show that the amendment filed on February 26, 2009 (upon which the finality of the Office Action mailed October 2, 2009 was predicated) was entered. Therefore, the finality of the October 2, 2009 Office action is hereby withdrawn.

Accordingly, the petition is **GRANTED.**

The last Applicants' reply, filed December 2, 2009, will be considered a reply to a Non-Final Office action and will be entered. An Office action will be issued in response to Applicants' last reply.

Any inquiry concerning this decision should be directed to Hassan Kizou at (571) 272-3088.

V. Martin Wallace

Valencia Martin Wallace
Director
Technology Center 2400

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

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gerald Lebizay | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593390 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/027,915 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1302** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**HANLEY, FLIGHT & ZIMMERMAN, LLC**
**150 S. WACKER DRIVE**
**SUITE 2100**
**CHICAGO IL 60606**

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|---|---|---|
| In re Application of | : | |
| Ernst Wössner | : | |
| Application No. 11/027,934 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | |
| Attorney Docket No. 20020/10052 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed November 24, 2008, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 14, 2008, which set a shortened statutory period for reply of three (3) months. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 15, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(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)(II)(C) and (D). The instant petition lacks item (1) above.

The proposed reply required for consideration of a petition to revive after the final office action must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application

under 37 CFR 1:53(b). *See* MPEP 711.03(c)(III)(A)(2). Since, according to Examiner Troy Chambers, the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). See the enclosed Advisory Action, PTOL-303.

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 petition decision may be directed to the undersigned at (571) 272-6692. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Christopher Bottorff
Petitions Examiner
Office of Petitions

enclosure:

(1) Advisory Action Before the Filing of an Appeal Brief, PTOL-303

| Advisory Action Before the Filing of an Appeal Brief | Application No. | Applicant(s) | |
|---|---|---|---|
| | 11/027,934 | WOSSNER, ERNST | |
| | Examiner | Art Unit | |
| | Troy Chambers | 3641 | |

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

THE REPLY FILED 24 November 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

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

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

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

NOTICE OF APPEAL

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

AMENDMENTS

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

   NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).
4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
   The status of the claim(s) is (or will be) as follows:
   Claim(s) allowed: _____.
   Claim(s) objected to: _____.
   Claim(s) rejected: 1-8.
   Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

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

REQUEST FOR RECONSIDERATION/OTHER

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

/Troy Chambers/
Primary Examiner
Art Unit: 3641

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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO IL 60606

| | | |
|---|---|---|
| In re Application of | : | |
| Ernst Wössner | : | |
| Application No. 11/027,934 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | |
| Attorney Docket No. 20020/10052 | : | |

This is a decision on the petition under 37 CFR 1.181 (no fee), filed August 21, 2009 requesting withdrawal of the holding of abandonment in the above-identified application and a refund of a petition fee paid under 37 CFR 1.137(b).

The petition to withdrawal the holding of abandonment is **GRANTED**.

The request for a refund is **DISMISSED**.

This application was held abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed May 14, 2008, which set a shortened statutory period for reply of three (3) months. A reply was due on or before August 14, 2008, without an extension of time under 37 CFR 1.136, or November 14, 2009, with a three month extension of time. A one month extension of time under the provisions of 37 CFR 1.136(a) was obtained, which permitted reply on or before Monday, September 15, 2008.

Petitioner states that the final Office action, mailed May 14, 2008, should not have been made final and a reply to that Office action was timely filed. A search of the file reveals that the examiner agreed to withdraw the finality of the Office action mailed May 14, 2008 and that a reply was filed September 15, 2008. Consultation with the examiner and his supervisor confirmed that the Office action mailed May 14, 2008 should not have been made final. Since the characterization of the Office action as final was improper, all subsequent procedures involving after final practice were also improper. Accordingly, the Office action of May 14, 2008 is recognized as being non-final and the reply filed September 15, 2008 in response to that non-final Office action is recognized as being timely received in the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

In regard to the requested refund, refunds are only permitted in the event that a fee is paid by mistake or in excess of that required. See 37 CFR 1.26(a). As the petition under 37 CFR 1.137(b) was intentionally filed and payment of the fee was a required part of the filing of the petition, the fee was not paid by mistake. Also, the $1,620.00 paid was precisely the amount of the fee required for the filing of a petition under 37 CFR 1.137(b) by other than a small entity. Thus, no fee has been paid in excess of that required. Accordingly, the $1,620.00 paid in the filing of the petition under 37 CFR 1.137(b) will not be refunded. Also, since the holding of abandonment is hereby withdrawn, the renewed petition under 37 CFR 1.137(b) is moot.

This application is being referred to Technology Center AU 3641 for appropriate action in the normal course of business on the reply received September 15, 2008, which was filed again on November 24, 2008 and August 21, 2009.

Any questions concerning this petition decision may be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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ROBERT A. PARSONS
4000 N. CENTRAL AVENUE
SUITE 1220
PHOENIX AZ 85012

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| | | |
|---|---|---|
| In re Application of | : | |
| Robert Davies | : | |
| Application No. 11/027,956 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | |
| Attorney Docket No. 4151-A8D | : | |

This is in response to the REQUEST TO WITHDRAW HOLDING OF ABANDONMENT filed September 18, 2006.

The above-identified application became abandoned for failure to file a reply to the final Office action mailed February 8, 2006. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension of time obtained, the application became abandoned on May 9, 2006. A courtesy Notice of Abandonment was mailed on September 1, 2006.

On instant petition, applicant asserted that a response to the Office action was timely mailed on April 12, 2006, along with a certificate of mailing. In support thereof, applicant provided a copy of the response and a copy of their itemized and date-stamped return postcard acknowledging receipt by the Office of the response.

A review of the petition and response reveals that the response misidentified the application that it was directed to. The response as petitioner maintains it was filed with a certificate of mailing dated April 12, 2006 and date of receipt of April 17, 2006 was present in the image file wrapper of the misidentified

application number. This has been corrected. The response filed April 17, 2006, has been "moved" from the electronic record of the incorrectly identified application to the record of the instant application. Moreover, the response is considered timely filed.

Accordingly, the Notice of Abandonment mailed September 1, 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 3641 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff for withdrawal of the holding of abandonment, and for consideration by the examiner of the response timely filed April 17, 2006.

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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**PAUL, HASTINGS, JANOFSKY & WALKER LLP**
**875 15th Street, NW**
**Washington DC 20005**

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| | | |
|---|---|---|
| In re Application of | : | |
| Kenny Che et al. | : | |
| Application No. 11/027,992 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. VTX0325-US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 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 April 9, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed January 9, 2007. Accordingly, the date of abandonment of this application is April 10, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400 and the publication fee of $300, (2) the petition fee of $1500; 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 Publishing Division for processing into a patent.

Liana Walsh
Petitions Examiner
Office of Petitions

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Paper No.

Theodore A. Chen
EMC Corporation
6801 Koll Center Parkway
Pleasanton CA 94566

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APR 14 2008

**OFFICE OF PETITIONS**

In re Application of
Christopher Hercules Claudatos
et al.
Application No. 11/027,997
Filed: December 31, 2004
Attorney Docket Number: L179US
Title: POLICY-BASED INFORMATION MANAGEMENT

DECISION ON PETITION
PURSUANT TO
37 C.F.R. § 1.137(A)

This is a decision on the petition filed March 13, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 1, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 2, 2007. A notice of abandonment was mailed on March 7, 2008.

RELEVANT PORTION OF THE C.F.R.

37 C.F.R. § 1.4(d)(2) sets forth, *in toto*:

S-signature. An S-signature is a signature inserted between forward slash marks, but not a handwritten signature as defined by § 1.4(d)(1). An S-signature includes any signature made by electronic or mechanical means, and any other mode of making or applying a signature not covered by a handwritten signature of § 1.4(d)(1). Correspondence being filed in the Office in paper, by facsimile transmission as provided in § 1.6(d), or via the Office electronic filing system as an attachment as provided in § 1.6(a)(4), for a patent application, patent, or a reexamination proceeding may be S-signature signed instead of being personally signed (i.e., with a handwritten signature) as provided for in paragraph (d)(1) of this section. The requirements for an S-signature under this paragraph (d)(2) of this section are as follows.

(i) The S-signature must consist only of letters, or Arabic numerals, or both, with appropriate spaces and commas, periods, apostrophes, or hyphens for punctuation, and **the person signing the correspondence must insert his or her own S-signature with a first single forward slash mark before, and a second single forward slash mark after, the S-signature (e.g., /Dr. James T. Jones, Jr./)** (emphasis added); and

(ii) A patent practitioner (§ 1.32(a)(1)), signing pursuant to §§ 1.33(b)(1) or 1.33(b)(2), must supply his/her registration number either as part of the S-signature, or immediately below or adjacent to the S-signature. The number (#) character may be used only as part of the S-signature when appearing before a practitioner's registration number; otherwise the number character may not be used in an S-signature.

(iii) The signer's name must be:

(A) Presented in printed or typed form preferably immediately below or adjacent the S-signature, and

(B) Reasonably specific enough so that the identity of the signer can be readily recognized.

37 C.F.R. § 10.18(a) sets forth, *in toto*:

For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature, personally signed by such practitioner, in compliance with § 1.4(d)(1) of this chapter.

ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable;
(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.

Receipt of the petition fee is acknowledged: Petitioner has met the second requirement of Rule 1.137(a). The fourth requirement is not applicable, as a terminal disclaimer is not necessary.

**The first and third requirements of Rule 1.137(a) have not been met.**

Regarding the first requirement of Rule 1.137(a), the requirement has not been satisfied because Petitioner did not submit the required reply to the notice. The required reply is the reply sufficient to have avoided abandonment, had such reply been timely filed[1]. In order for the application to be revived, petitioner must submit a reply that satisfies 37 C.F.R. § 1.137(a)(1) (i.e., a response to the non-final Office action of May 1, 2007).

A courtesy copy of the non-final Office action of May 1, 2007 has been included with this decision.

Regarding the third requirement, it has not been established that the entire period of delay was unavoidable.

Petitioner has submitted, *inter alia*, form PTO/SB/61 and a statement of facts - both of these documents contain an electronic signature. The electronic signature that appears on the form was executed properly, however the electronic signature that appears on the statement of facts was not executed properly, as it does not contain forward slash marks, as is

1 See M.P.E.P. § 711.03(c).

required by 37 C.F.R. § 1.4(d)(2)(i). Due to the fact that the signature on this paper does not contain an electronic signature that can be accepted, this submission is being treated as though it was not signed.
Since the Office is treating the statement of facts as a paper that has been submitted without a signature, this submission cannot be accepted, pursuant to Rule 10.18(a). See also 37 C.F.R. § 1.4 and M.P.E.P. § 502.02.

Due to the fact that this statement of facts cannot be accepted, the material set forth therein has not been considered by the undersigned. It follows that Petitioner has not established that the entire period of delay was unavoidable, as no showing of the same (that can be considered by the Office) has been presented.

## CONCLUSION

Pursuant to the above discussion, the petition must be **DISMISSED.**

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

On renewed petition, Petitioner should submit a statement of facts that has been properly executed[2], along with a response to the non-final Office action of May 1, 2007.

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

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2 See 37 C.F.R. § 1.4(h) for a discussion of confirmation.
3 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
4 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
5 (571) 273-8300- please note this is a central facsimile number.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[6].

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Courtesy copy of the non-final Office action of May 1, 2007

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).

UNITED STATES PATENT AND TRADEMARK OFFICE

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/027,997 | 12/31/2004 | Christopher Hercules Claudatos | L179US | 8524 |

7590 05/01/2007

Theodore A. Chen, Esq.
EMC Corporation
2350 West El Camino Real
Mountain View, CA 94040

Courtesy Copy

| EXAMINER |
|---|
| CHEMPAKASERIL, ANN J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2169 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 05/01/2007 | 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) |
|---|---|---|
| | 11/027,997 | CLAUDATOS ET AL. |
| | Examiner | Art Unit |
| | Ann J. Chempakaseril | 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 31 December 2004.

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.

Courtesy Copy

**Disposition of Claims**

4)☒ Claim(s) 1-17 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) 1-17 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 31 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 _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Courtesy Copy

## DETAILED ACTION

1. Claims 1-17 are pending.

### *Drawings*

2. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the informal drawings are not of sufficient quality to permit examination 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.

3. The drawings are objected to under 37 CFR 1.83(a) because they fail to show details as described in the specification. Figures 1, 4, 7b, 8, and 10 have diagram boxes that do not have any descriptive material in them. Fig. 6 have dark boxes with descriptions that are barely legible. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d).

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering

of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). 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.

### *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.

**Claims 1-17** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application with useful, concrete and tangible result.

The claim recites for managing an object having content, comprising: applying analytic policy to evaluate the content of the object and associating the object to metadata relating to the information management policy.

In the above limitation, there is no physical transformation being claimed, a practical application would be established by a useful, concrete and tangible result.

For it to be a tangible result, it must be more than a thought or a computation and must have a real world value rather than being an abstract idea. The invention as recited in the claim evaluating the content of the object and associating the object to metadata relating to the information management policy. It is unclear as to what kind of tangible output is obtained by associating the object to metadata.

As such, the claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category.

***Claim Rejections - 35 USC § 102***

6. 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 (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-3, 5-9 and 16-17** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2004/0199566 issued to Carlson et al. (hereinafter "Carlson").

As per **claims 1, 16, and 17,** Carlson teaches, managing an object having content, in a system having a dynamic policy selector configured with at least one analytic policy **(the data management system is policy based and incorporates a policy set, which includes a service class policy and a storage pool policy having a number of rules designed to select a service class and/or storage pool of a file based on attributes of the file [0013])**, the method comprising:

applying at least a first analytic policy to evaluate the content of the object **(file attributes are object metadata that describe the content of the object, e.g. type, format, etc [Abstract]. Thus analyzing an object's metadata is analyzing its**

**content [0013]. Also note that metadata can be contained in the file itself; see paragraph [0071]); and associating the object to an information lifecycle management policy based on the content analysis and metadata (see paragraph [0067]; service class policies and storage policies for data management are information lifecycle management policies);**

based on a result of applying the first analytic policy, associating the object to an information management policy (**The file attributes 340 are preferably received by a file evaluation module 350, which utilizes the file attributes 340 to apply the policy set 210. Service class policies and storage policies for data management are information lifecycle management policies; see paragraph [0067]);**

and associating the object to metadata relating to the information management policy (**Storage pool designation and precise location of storage pool are metadata relating to the information management policy which is associated to the object after application of one or more of the policy set; see paragraph [0071].)**

As per **claim 2**, Carlson teaches, applying at least one analytic policy to evaluate the content of the object, based on the result of applying the first analytic policy to evaluate the content of the object (**Storage pool designation 362 that specifies which of the storage pools 150, 152, 154 were selected to receive the file 310, and possibly the precise location of the selected storage pool(s) in which the file 310 is to be stored. The service class designation 364 may also include specific information related to the selected service class 280, 282, 284, or 286, such as the**

**recoverability (availability), performance, and allocation scheme Application of one of the analytic, like the storage policy, the designation of storage of storage pools and even precise location of the storage Thus, by applying at least one analytic policy with the first analytic policy, it can be used used subsequently in the file retrieval and usage process; see paragraph [0070])**

As per **claim 3**, Carlson teaches, the object has associated metadata, and the method further comprises determining a type of the object from the metadata **(Attributes of each file are used to classify the file according to the policy set 210. Such attributes may include the file name, the file extension (which often indicates the file type [0049])**

As per **claim 5,** Carlson teaches, the information management policy includes an action to be performed relating to the object, and the method further comprises performing the action **(The information management policy assigns a service class and storage file which allows the action to be performed; see paragraph [0065]. After evaluation, the file is designated which storage pool and service class is selected for the file; see paragraph [0070]. The file is then moved to the corresponding storage pool(s) for storage; see paragraph [0072]. Thus the action is performed.)**

As per **claim 6,** Carlson teaches, the information management policy includes a time during which the action is to be performed, and the method further comprises performing the action at the time specified in the information management policy **(The information management policy have operational requirements. An example of an**

**operation requirement is time, within which the network must complete the file operations; see paragraph [0054])**

As per **claim 7,** Carlson teaches, the information management policy includes a service level to be assigned, and the method further comprises assigning the service level to the object **(More precisely, the file evaluation module 350 may comprise a service class selection module 352 that uses the service class policy 220 to select a service class 280, 282, 284, or 286 for the file 310. Hence, the service class selection module applies the rules 240, 242, 244 of the service class policy 220 to the file attributes 340 to determine which of the service classes 280, 282, 284, 286 is appropriate for the file 310. When the service class selection module 352 determines that the file attributes 340 satisfy the requirements of a rule, the service class selection module 352 assigns the corresponding service class 280, 282, 284, 286 to the file 310. [0067])**

As per **claim 8,** Carlson teaches, associating the object to metadata indicating the service level **(The storage pool and service class designations 362, 364 will be used subsequently in the file retrieval and usage process. [0070])**

As per **claim 9,** Carlson teaches, associating to the object, based on the service level, at least one parameter selected from the group comprising performance, latency, bandwidth, security, availability, backup frequency, level of encryption, number of copies, compression, media type, data migration, retention period, or access control **(The service class designation 364 may also include specific information related to the selected service class 280, 282, 284, or 286, such as the recoverability**

**(availability), performance, and allocation scheme (i.e., sparse versus dense storage) requirements pertaining to the service class 280, 282, 284, or 286 [0070])**

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson as applied to claim 3 above, and further in view of Zhang et al. (US PGPub 2002/0143797; hereinafter "Zhang").

As per **claim 4**, Carlson teaches determining a type of the object from the metadata (Attributes of each file are used to classify the file according to the policy set 210. Such attributes may include the file name, the file extension (which often indicates the file type [0049]), and analyzing the content of the object; e.g. analyzing the content of the object through its file attributes paragraph [0013]).

Carlson does not explicitly teach, "using the type of the object in analyzing the content of the object" as claimed.

Zhang teaches the claimed using the type of the object in analyzing the content of the object **(In order to get more precise classification result, this file information extraction means 202 firstly detects the file type of the file to be classified and then extracts the text from the original file according to different file format. The**

**file information analysis means 203, splits the text information that extracted by the file information extraction means 202 to small information unit for later classification; see paragraphs [0037]-[0038]).**

Carlson and Zhang analogous art because they relate to file management based on file analysis.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the system as taught by Carlson to use the file type in object analysis as taught by Zhang in order to make a more precise decision regarding action to be taken on the analyzed object (Zhang, paragraph [0037]). Modification would allow efficient file browsing and saves the user time to find a file from a large directory.

**Claims 10-15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson as applied to claim 1 above, and further in view of Kanellos et al. (US PGPub 2003/0236788; hereafter "Kanellos").

As per **claim 10**, Carlson teaches (Associating the object to an information lifecycle management policy based on the content analysis and metadata (see paragraph [0067]; service class policies and storage policies for data management are information lifecycle management policies). Carlson does not explicitly teach "the at least one analytic policy includes a term during which the information management policy is to be associated with the object, and wherein the metadata includes information about the term."

Kanellos teaches the claimed the at least one analytic policy includes a term during which the information management policy is to be associated with the object, and wherein the metadata includes information about the term **(If the cutoff cycle date for a file plan object 122 is January 1.sup.st, and the cutoff frequency is semi-annually, a cutoff determination will be made as of January 1.sup.st and July 1.sup.st each year. If the file plan object 122 is registered with the record management server 200 on December 14.sup.st (its life cycle date), and is assigned a retention rule defining the sequence of a cutoff phase; see paragraph [0063]).**

Carlson and Kanellos are analogous art because both teach data policy-based data backup.

It would have been obvious to one of ordinary skill in the art at the time of the invention having the teachings of Carlson and Kanellos before him/her to modify the system as taught by Carlson to associate a date of disposition with the object as taught by Kanellos in order to better satisfy the long-felt need to manage electronic documents (Kanellos, paragraph [0011]) by automating data retention policies. Modification would facilitate life cycle management of electronic records between different life cycle phases

As per **claim 11**, Kanellos discloses, revoking the association of the information management policy to the object when the term has expired **(The host record associated with the field plan object will be deleted from the host server after the cutoff phase; see paragraph [0063])**

As per **claim 12**, Kanellos discloses, associating the object to another information management policy without change in the result **(If the disposition type is accession, then the host record is transferred to the disposal authority specified for the file plan object. [Para 0117])**

It would have been obvious to one of ordinary skill in the art at the time of the invention having the teachings of Carlson and Kanellos before him/her to modify the system as taught by Carlson to associate a date of disposition with the object as taught by Kanellos in order to better satisfy the long-felt need to manage electronic documents (Kanellos, paragraph [0011]) by automating data retention policies. Modification would facilitate transition between managed records to the respective life cycle states

As per **claim 13**, Kanellos discloses, revoking the association of the object with the at least one information management policy, and associating the object to at least one other information management policy, without change in the result **(The host record associated with the field plan object will be deleted from the host server after the cutoff phase; If the disposition type is accession, then the host record is transferred to the disposal authority specified for the file plan object. [Para 0063])**

It would have been obvious to one of ordinary skill in the art at the time of the invention having the teachings of Carlson and Kanellos before him/her to modify the system as taught by Carlson to associate a date of disposition with the object as taught by Kanellos in order to better satisfy the long-felt need to manage electronic documents

(Kanellos, paragraph [0011]) by automating data retention policies. Modification would track changes in the life cycle phases for the records from the life cycle rules.

As per **claim 14**, Kanellos discloses, storing the object on a storage device in accordance with the at least one information management policy **(In accordance with an information management policy there are storage spaces for storing information objects having a particular life cycle states. [0004])**

It would have been obvious to one of ordinary skill in the art at the time of the invention having the teachings of Carlson and Kanellos before him/her to modify the system as taught by Carlson to store the object in a storage device such as a database in order to better satisfy the long-felt need to manage electronic documents (Kanellos, paragraph [0011]) by automating data retention policies. Modification allows the host application to access a file plan database, with each file plan node including information about retention governing life cycle phase changes of an object associated with the file plan node.

As per **claim 15**, Kanellos discloses, revoking the association of the object with the at least one information management policy, and associating the object to at least one other information management policy, without change in the result **(The host record associated with the field plan object will be deleted from the host server after the cutoff phase; If the disposition type is accession, then the host record is transferred to the disposal authority specified for the file plan object. [Para 0063])**

## *Conclusion*

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See **MPEP 707.05**.

US Patent 7007048 issued to Murray et al.

US Patent Application Publication 20060010150 issued to Shaath et al.

***Contact Information***.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann J. Chempakaseril whose telephone number is 571-272-9767. The examiner can normally be reached on Monday through Thursday, 9-4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571-272-4215. 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.

Ann Chempakaseril

Ann J Chempakaseril
Examiner
Art Unit 2169

April 19, 2007

SA

Pierre Vital

PIERRE VITAL
SUPERVISORY PATENT EXAMINER

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.

Theodore A. Chen
EMC Corporation
6801 Koll Center Parkway
Pleasanton CA 94566

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| | |
|---|---|
| In re Application of<br>Christopher Hercules Claudatos<br>et al.<br>Application No. 11/027,997<br>Filed: December 31, 2004<br>Attorney Docket No. L179US<br>Title: POLICY-BASED INFORMATION MANAGEMENT | DECISION ON RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.137(a) |

This is a decision on the renewed petition filed June 13, 2008, pursuant to 37 C.F.R. § 1.137(a), to revive the above-identified application. A supplement to this petition was received on July 29, 2008.

This renewed petition is **GRANTED**.

BACKGROUND AND PROCEDURAL HISTORY

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 1, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 2, 2007. A notice of abandonment was mailed on March 7, 2008.

An original petition was filed on March 13, 2008, which was dismissed via the mailing of a decision on April 14, 2008, since the original petition had not been executed.

## THE APPLICABLE STANDARD

The Commissioner is responsible for determining the standard for unavoidable delay and for applying that standard:

> In the specialized field of patent law, . . . the Commissioner of Patent and Trademarks is primarily responsible for the application and enforcement of the various narrow and technical statutory and regulatory provisions. The Commissioner's interpretation of those provisions is entitled to considerable deference[1].
>
> [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[2].
>
> 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[3].'
>
> 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[4].

Nonawarness of a PTO rule will not constitute unavoidable delay[5]

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1 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's 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.")

2 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).

3 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)).

4 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)).

5 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

The burden of showing the cause of the delay is on the person seeking to revive the application[6].

> "[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: "[d]id petitioner act as a reasonable and prudent person in relation to his most important business?"[8]

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[9]."

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[10].

In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account[11]."

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prosecutes on his own) applicant. It would be inequitable for a court to determine that a client who spends his hard earned money on an attorney who happens not to know a specific rule should be held to a higher standard than a pro se applicant who makes (or is forced to make) the decision to file the application without the assistance of counsel.

6 Id.

7 See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

8 See In re Mattulah, 38 App. D.C. 497 (D.C. Cir. 1912).

9 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

10 In re Mattullath, 38 App. D.C. at (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).

11 Smith v. Mossinghoff, 671 F.2d at 538; 213 USPQ at 982.

A petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable[12]."

**RELEVANT PORTIONS OF THE C.F.R. AND MPEP**

37 C.F.R. § 1.134 sets forth, *in toto*:

> 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 sets forth, *in toto*:

> (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.

MPEP § 707.13 sets forth, *in toto*:

> Office actions are sometimes returned to the Office because the United States Postal Service has not been able to deliver them. Upon receipt of the returned Office action, the Technology Center (TC) technical support staff will check the application file record to ensure that the Office action was mailed to the correct correspondence address. If the Office action was not mailed to the correct correspondence address, it should be stamped "remailed" with the remailing date and mailed to the correct correspondence address. The period running against the application begins with the date of remailing. If the Office action was mailed to the correct correspondence address and it was addressed to an attorney or agent, a letter along with a copy of the Office action may be sent to the first named inventor or assignee (if available) informing him or her of the returned action. The time period for reply to the Office action will be restarted to run from the

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12 Haines, 673 F. Supp. at 314, 316-17; 5 USPQ2d at 1131-32.

mailing date of the letter informing applicant of the returned action.

If the Office is not finally successful in delivering the letter, it is placed, with the envelope, in the file wrapper. For an Image File Wrapper (IFW), a copy of the letter and a copy of the envelope should be added to the IFW (see IFW Manual). If the period dating from the remailing elapses with no communication from applicant, the application is abandoned.

**APPLICATION OF THE STANDARD TO THE PRESENT SET OF FACTS**

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(l);
(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this renewed petition, Petitioner has included the petition fee, an amendment and remarks, the proper statement of unintentional delay, and a showing that the entire period of delay was unavoidable. Consequently, the first three requirements of Rule 1.137(a) have been satisfied. The fourth requirement is not applicable, as a terminal disclaimer is not required.

Regarding the third requirement of Rule 1.137(a), Petitioner has asserted that the non-final Office action of May 1, 2007, was not received, as it was mailed to an outdated address.

Office records show that the Utility Patent Application Transmittal sheet that was included on initial deposit included a customer number, along with a typed correspondence address. This typed address was the same address that was associated with this customer number at the time of filing, an address in the city of Mountain View. However, the Office did not properly enter the Customer Number as the address of record - instead, the Office improperly entered the written address that appeared

on the transmittal sheet[13]. In other words, the customer number was not properly associated with this application.

Consequently, when Petitioner submitted a Request for Customer Number Data Change on April 8, 2005, the address that is associated with this customer number changed to an address in the city of Pleasanton, but the address that was associated with this application remained the Mountain View address. Consequently, the non-final Office action of May 1, 2007 was incorrectly mailed to the outdated Mountain View address.

As such, it is clear that the non-final Office action of May 1, 2007 was not received due to the fact that it was mailed to the wrong address.

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 and remarks that were received on June 13, 2008 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[14]. 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

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13 See MPEP § 403 and 37 C.F.R. § 1.33(a).
14 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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**LAW OFFICES OF ROBERT HART**
**28 EAST JACKSON BUILDING**
**10TH FLOOR, SUITE H525**
**CHICAGO, IL 60604**

**MAILED**

FEB 17 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Gurantz et al. | : | |
| Application No. 11/027,999 | : | DECISION ON PETITION |
| Filed: December 31, 2004 | : | |
| Attorney Docket No. ENTROPIC 2 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) to revive the above-identified application filed, January 22, 2009. This is also a decision under 37 CFR 1.182, filed January 27, 2009, to expedite the petition under 37 CFR 1.137(b).

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

The petition under 1.182 to expedite is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before December 26, 2008, as required by the Notice of Allowance and Fee(s) Due mailed September 26, 2008. Accordingly, the application became abandoned on December 27, 2008. A Notice of Abandonment was mailed January 22, 2009.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755 (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

The Revocation and New Power of Attorney, filed January 22, 2009, cannot be accepted since the statement under 3.73(b)[1] is insufficient. The statement under 3.73(b) does not indicate the correct application number. Also, the reel/frame number listed on the statement under 3.73(b) does not correlate with the above patent application number.

However, in accordance with 37 CFR 1.34, the signature of Mr. Bruce W. Greenhaus 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. If, Mr. Greenhaus 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. Greenhaus, 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.

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.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: BRUCE GREENHAUS
ENTROPIC COMMUNICATIONS, INC
6290 SEQUENCE DRIVE
SAN DIEGO, CA 92121

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1 The statement under 37 CFR 3.73(b) may be signed on behalf of the assignee in the following two manners if the assignee is an organization (e.g., corporation, partnership, university, government agency, etc.). (1) The statement may be signed by a person in the organization having apparent authority to sign on behalf of the organization. An officer (president, vice-president, secretary, or treasurer) is presumed to have authority to sign on behalf of the organization. The signature of the chairman of the board of directors is acceptable, but not the signature of an individual director. A person having a title (manager, director, administrator, general counsel) that does not clearly set forth that person as an officer of the assignee is not presumed to be an officer of the assignee or to have authority to sign the statement on behalf of the assignee. A power of attorney from the inventors in an organization to a practitioner to prosecute a patent application does not make the practitioner an official of an assignee or empower the practitioner to sign the statement on behalf of the assignee. (2) The statement may be signed by any person, if the statement includes an averment that the person is empowered to sign the statement on behalf of the assignee and, if not signed by a registered practitioner, the statement must be in oath or declaration form. Where a statement does not include such an averment, and the person signing does not hold a position in the organization that would give rise to a presumption that the person is empowered to sign the statement on behalf of the assignee, evidence of the person's authority to sign will be required.

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**OFFICE OF PETITIONS**

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| In re Application of | : |
| Leong et al. | : |
| Application No. 11/028,061 | : DECISION DISMISSING |
| Filed: 4 January, 2005 | : PETITION |
| Atty Docket No. 72167.000497 | : |

This is a decision in reference to the paper filed on 23 March, 2005, which is treated as a petition requesting that the application be accorded a filing date of 4 January, 2005, with eight (8) sheets of drawings, including Figure 9 described in the specification, as a part of the original disclosure.

On 4 January, 2005, the application was filed.

Accordingly, on 11 March, 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 4 January, 2005, but that Figure 9 described in the specification appeared to have been omitted.

In response, on 23 March, 2005, the present petition was filed.

Petitioners assert, in pertinent part:

> The transmittal papers and the return postcards submitted with the application on January 4, 2005 erroneously identified the application as containing eight sheets of drawings, including Figures 1-8. Applicants were correct in asserting that the application contained 8 sheets of drawings, but incorrect in the total number of figures provided in the application. The total number of figures provided in the application were 1-9."

The petition is dismissed.

Petitioners' argument has been considered, but is not persuasive. The U.S. Patent and Trademark Office (Office) file is the official record of the papers originally filed in this application. A review of the papers originally filed reveals that seven (7) sheets of drawings containing Figures 1, 2, 3, 4, 5, 6, 7, and 8 were filed on 4 January, 2005. No sheet of drawings containing Figure 9 was filed on 4 January, 2005, since no such sheet of drawings is present among the application papers received on that date. 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.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[1] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is 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. However, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 4 January, 2005, showing that Figure 9 was received in the USPTO on 4 January, 2005, the application cannot be accorded a filing date of 4 January, 2005, with Figure 9 as a part of the original disclosure.

Petitioners should submit a copy of their itemized return receipt postcard stamped by the Office with any renewed petition.

The application will be processed using only the application papers present on filing.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, a petition fee of $400.00 will be charged to counsel's deposit account, No. 50-0206, as authorized in the petition.

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[1] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the *O.G.* that contains important *O.G.* notices of continuing relevance.

Receipt is acknowledged of the request to correct the attorney docket number. As the attorney docket number in Office PALM records reflects the attorney docket number as listed on the petition, no correction appears to be necessary.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 4 January, 2005, using the application papers filed on that date.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Leong et al. | : | DECISION DISMISSING |
| Application No. 11/028,061 | : | PETITION |
| Filed: 4 January, 2005 | : | |
| Atty Docket No. 72167.000497 | : | |

This is a decision in reference to the petition styled under 37 CFR 1.182, filed on 5 May, 2005, which is treated as a renewed petition requesting that the application be accorded a filing date of 4 January, 2005, with eight (8) sheets of drawings, including Figure 9 described in the specification, as a part of the original disclosure.

On 4 January, 2005, the application was filed.

Accordingly, on 11 March, 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 4 January, 2005, but that Figure 9 described in the specification appeared to have been omitted. The petition filed on 23 March, 2005, was dismissed on 28 April, 2005.

In response, on 5 May, 2005, the present renewed petition was filed, accompanied by eight (8) sheets of drawings, including one (1) sheet of drawings containing Figure 9, and a postcard itemizing the filing of eight (8) sheets of drawings.

The petition is dismissed.

The petition must be dismissed because petitioners' postcard does not contain a legible date-stamp. In this regard, it appears that the date-stamp is on the reverse of counsel's postcard. As such, petitioners should consider supplying a copy of both sides

of the postcard for examination by the Office. At present, however, the postcard without a legible date-stamp cannot service as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on a date certain.

Therefore, due to the absence in the record of a postcard receipt itemized with respect to the specification that bears a USPTO date stamp of 4 January, 2005, showing that Figure 9 was received in the USPTO on 4 January, 2005, the application cannot be accorded a filing date of 4 January, 2005, with Figure 9 as a part of the original disclosure.

The application will be processed using only the application papers present on filing.

With regard to petitioners' claim that the omitted figure is contained in a prior application which was incorporated by reference via a priority claim filed with the original application papers, 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)).

MPEP 201.06(c) states that:

> . . . an applicant may incorporate by reference the prior application by including, in the application-as-filed, a statement that such specifically enumerated prior application or applications are "hereby incorporated herein by reference." The statement may appear in the specification or in the application transmittal letter. The inclusion of this incorporation by reference of the prior application(s) will permit an applicant to amend the continuing application to include any subject matter in such

> prior application(s), without the need for a petition. (emphasis supplied)

On 21 September, 2004, 37 CFR 1.57(a) was amended to read:

> 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 the benefit or 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).

Furthermore, while applicant may rely on the incorporation by reference provided by 37 CFR 1.57(a) to amend the application to add Figure 9, applicant, however, must file the amendment to add the inadvertently omitted drawing figure in compliance with § 1.57(a) within the time set forth in the Notice of Omitted Items.[1]

Obviously, in view of the incorporation by reference of the prior application via the priority claim, Figure 9 of the specification is not new matter if it was a part of the disclosure of the prior application.

Petitioner should file Figure 9 as a preliminary amendment. If Figure 9 is filed as a preliminary amendment, it will be reviewed by the examiner for new matter.

The application will be processed using only the application papers present on filing. The copy of the drawing sheets filed with the present petition will not be processed for examination, but will be retained in the application file.

As this petition was necessitated by applicants' filing error rather than an error on the part of the Office, a petition fee of $400.00 was charged with the original petition. The duplicate petition fee paid with the present renewed petition will be

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[1] See 69 Fed.Reg. 56482, 56502 (Sept. 21, 2004).

refunded, however, to counsel's deposit account, No. 50-0206, as authorized in the petition.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 4 January, 2005, using the application papers filed on that date.

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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| In re Application of | : | |
| Leong et al. | : | |
| Application No. 11/028,061 | : | ON PETITION |
| Filed: 4 January, 2005 | : | |
| Atty Dcket No. 72167.000451-CON | : | |

This is a decision in reference to the twice renewed petition, filed on 23 June, 2005, which is treated as a petition requesting that the application be accorded a filing date of 4 January, 2005, with eight (8) sheets of drawings, including one (1) sheet of drawings containing Figure 9 described in the specification, as a part of the original disclosure.

On 4 January, 2005, the application was filed.

Accordingly, on 11 March, 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 4 January, 2005, but that Figure 9 described in the specification appeared to have been omitted. The petition filed on 23 March, 2005, was dismissed on 28 April, 2005. The renewed petition filed on 5 May, 2005, was dismissed on 16 June, 2005.

In response, on 23 June, 2005, the present petition was filed.

Petitioners argue that one (1) sheet of drawings containing Figure 9 described in the specification were filed with the other application papers on 4 January, 2005, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' two postcard receipts was supplied with the present renewed petition. One postcard receipt shows an Office date stamp of 01/04/05 on the front, and other other shows an Office date stamp of 01/04/05 and the above-identified application number on the reverse side, both postcards identify the application by the first named inventor's name, and attorney docket number, and acknowledges receipt of, *inter alia*,

"eight (8) sheets of drawings (Figs. 1-8). Petitioners request that the application, including one (1) sheet of drawings containing Figure 9, be accorded a filing date of 4 January, 2005.

A review of the record reveals that no Figure 9 described in the specification has been located among the application papers received on 4 January, 2005, which included seven (7) sheets of drawings including Figure 1-8. Although the postcard identifies "Figs. 1-8", the postcard also itemizes the filing of eight (8) sheets of drawings. Additionally, Figure 9 is referred to in the specification.

Therefore, the evidence is convincing that the application papers deposited on 4 January, 2005, included one (1) sheet of drawings containing Figure 9, which were subsequently misplaced in the Office. Therefore, the application, including one (1) sheet of drawings containing Figure 9, is entitled to a filing date of 4 January, 2005.

The "Notice" mailed on 11 March, 2005, is vacated.

In view of the above, the petition is granted. The petition fee of $400.00 is unnecessary and will be refunded to counsel's deposit account, No. 50-0206.

The application will be processed with the copy of one (1) sheet of drawings containing Figure 9 supplied on 5 May, 2005, as a part of the original disclosure. The copies of the other application papers filed with the original and renewed petitions will not be used for processing or examination, but will be retained in the application file.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 4 January, 2005, using the application papers filed on that date, and the copy of one (1) sheet of drawings containing Figure 9 supplied with the previously filed petition.

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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Director's Office
Group 3700

Bruce Wood
P.O. Box 490
Gladstone, OR 97027

In re Application of
Robert Perrault
Serial No. 11/028063
Filed: January 04, 2005

**DECISION ON PETITION TO MAKE SPECIAL**

**For: ON-BOARD REFUELING SYSTEM FOR VEHICLES**

Applicant's petition, filed January 04, 2005, seeks to have this application made special based upon the Environmental Quality Program.

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(V) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

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

rt/ 7/21/05

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THEODORE A. CHEN
EMC CORPORATION
6801 KOLL CENTER PARKWAY
PLEASANTON CA 94566

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APR 29 2008

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Claudatos et al. | : | DECISION ON PETITION |
| Application Number: 11/028079 | : | |
| Filing Date: 12/31/2004 | : | |
| Attorney Docket Number: L180US | : | |

This is a decision in reference to the petition filed under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, filed on March 31, 2008.

The petition is **GRANTED**.

The application was held abandoned on August 2, 2007, for failure to timely file a response to the non-final Office action mailed on May 1, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 25, 2008.

Petitioners assert that the non-final Office action mailed on May 1, 2007, was never received because it was sent to an old correspondence address.

Specifically, petitioners assert that they filed a Request for Customer Number Data Change of April 8, 2005, and that a Notice of Customer Number Record Change was mailed on April 11, 2005. Applicants believed that the correspondence address in the subject application had been changed thereby. Applicants further stated that they recently checked the application information in PAIR and discovered that the old address was still being used. "Applicants were told that an Office Action had been mailed to the old correspondence address, that the time for response had passed, and that this application would be held abandoned."

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 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).

It is noted that the non-final Office action mailed on May 1, 2007, was returned as undeliverable to the USPTO on May 15, 2007.

A review of the official file reveals that the executed declaration under 37 CFR 1.63 filed on March 7, 2005, requests

that all correspondence be sent to: Theodore A. Chen, 6801 Koll Center Parkway, Pleasanton, CA 94566.

37 CFR 1.33 states, in pertinent part:

> (a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76 ), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
>
> ...
>
> (2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

> (b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Irrespective of the Customer Number data change, it is noted that the aforementioned address is the current address associated with the Customer Number. As such, the Office did not properly change the correspondence address as indicated in the declaration under 37 CFR 1.63 filed on March 7, 2005. Had this address been used, the non-final Office action would have been mailed to petitioners' current address.

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on May 1, 2007, to the previous address rather than the current correspondence address.

The petitioners have made a sufficient showing of nonreceipt of the Notice. As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The petition fee will be credited to counsel's deposit account, as authorized in the present petition.

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 2166 for remailing of the non-final Office action mailed on May 1, 2007. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Claudatos et al. | : | DECISION ON PETITION |
| Application Number: 11/028080 | : | |
| Filing Date: 12/31/2004 | : | |
| Attorney Docket Number: L180US | : | |

This is a decision in reference to the petition filed under 37 CFR 1.137(a), which is being treated as a petition to withdraw the holding of abandonment under 37 CFR 1.181, filed on March 13, 2008.

The petition is **GRANTED**.

The application was held abandoned on July 31, 2007, for failure to timely file a response to the non-final Office action mailed on April 30, 2007, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on March 6, 2008.

Petitioners assert that the non-final Office action mailed on April 30, 2007, was never received because it was sent to an old correspondence address.

Specifically, petitioners assert that they filed a Request for Customer Number Data Change of April 8, 2005, and that a Notice of Customer Number Record Change was mailed on April 11, 2005. Applicants believed that the correspondence address in the subject application had been changed thereby. Applicants further stated that they recently checked the application information in PAIR and discovered that the old address was still being used. "Applicants were told that an Office Action had been mailed to the old correspondence address, that the time for response had passed, and that this application would be held abandoned."

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing

that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

It is noted that the non-final Office action mailed on April 30, 2007, was returned as undeliverable to the USPTO on May 16, 2007.

A review of the official file reveals that the executed declaration under 37 CFR 1.63 filed on March 14, 2005, requests that all correspondence be sent to: Theodore A. Chen, 6801 Koll Center Parkway, Pleasanton, CA 94566.

37 CFR 1.33 states, in pertinent part:

> (a) Correspondence address and daytime telephone number. When filing an application, a correspondence address must be set forth in either an application data sheet (§ 1.76 ), or elsewhere, in a clearly identifiable manner, in any paper submitted with an application filing. If no correspondence address is specified, the Office may treat the mailing address of the first named inventor (if provided, see §§ 1.76 (b)(1) and 1.63 (c)(2)) as the correspondence address. The Office will direct, or otherwise make available, all notices, official letters, and other communications relating to the application to the person associated with the correspondence address. For correspondence submitted via the Office's electronic filing system, however, an electronic acknowledgment receipt will be sent to the submitter. The Office will generally not engage in double correspondence with an applicant and a patent practitioner, or with more than one patent practitioner except as deemed necessary by the

> Director. If more than one correspondence address is specified in a single document, the Office will select one of the specified addresses for use as the correspondence address and, if given, will select the address associated with a Customer Number over a typed correspondence address. For the party to whom correspondence is to be addressed, a daytime telephone number should be supplied in a clearly identifiable manner and may be changed by any party who may change the correspondence address. The correspondence address may be changed as follows:
>
> ...
>
> (2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).
>
> (b) Amendments and other papers . Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
>
> (1) A patent practitioner of record appointed in compliance with § 1.32(b);
> (2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
> (3) An assignee as provided for under § 3.71(b) of this chapter; or
> (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

Irrespective of the Customer Number data change, it is noted that the aforementioned address is the current address associated with the Customer Number. As such, the Office did not properly change the correspondence address as indicated in the declaration under 37 CFR 1.63 filed on March 14, 2005. Had this address been used, the non-final Office action would have been mailed to petitioner's current address.

As such, the showing of record is that the Office erred in mailing the non-final Office action mailed on April 30, 2007, to the previous address rather than the current correspondence address.

As such, there is no abandonment in fact. The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

The petition fee will be credited to counsel's deposit account, as authorized in the present petition.

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

The petition is **GRANTED.**

The application file is being referred to the Technology Center Art Unit 2166 for remailing of the non-final Office action mailed on April 30, 2007. The period for reply will be reset from the mailing date thereof.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Theodore A. Chen
EMC Corporation
6801 Koll Center Parkway
Pleasanton CA 94566

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APR 14 2008

**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Claudatos et al. | : | |
| Application No. 11/028089 | : | DECISION |
| Filing or 371(c) Date: 12/31/2004 | : | ON PETITION |
| Attorney Docket Number: L182US | : | |

This is a decision on the Petition to Revive Patent Application Unintentionally Abandoned Under 37 CFR 1.137(b), filed March 14, 2008.

This Petition is hereby **dismissed**.

Any further 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 25, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned on September 26, 2007. A Notice of Abandonment was mailed March 7, 2008.

Applicant files the present petition and asserts that the Office action was not received. Applicant's note that the Office action was mailed to an old correspondence address.

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 to item (**3**), a showing of non-receipt of an Office communication may form the basis for revival of an application based upon unavoidable delay.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, provides in relevant part:

> The showing required to establish nonreceipt of an Office communication must include
>
> (1) a statement from the practitioner stating that the Office communication was not received by the practitioner
>
> (2) a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> (3) a copy of the docket record where the nonreceived Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.
>
> For example, if a three month period for reply was set in the nonreceived Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office 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). (Emphasis supplied)

MPEP 711.03(c)

Analysis

A review of Office records reveals that Applicant filed a change of correspondence address on January 15, 2008. The non-final Office action was mailed on June 25, 2007. Office records further reveal that the Office action was returned to this Office on July 3, 2007. No explanation as to why the Office action was returned appears in the application file.

As to Applicant's assertion, that a change of correspondence address was filed on January 15, 2008, Applicant has not stated when the address change actually occurred. Applicant should file a declaration attesting to Applicant's correspondence address at the time the Office action was mailed – June 25, 2007.

Additionally, Applicant must file a reply to the Office action. A copy of the non-final Office action is enclosed herewith.

The petition is dismissed without prejudice. Applicant should file a Request for Reconsideration of Petition and include the necessary statements and/or copies of docket records and file jacket, and a reply to the Office action.

Alternate venue

If Applicant is unable to comply with the above requirements, Applicant may 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 reply and the petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay 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).

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

Enclosure: Copy of non-final Office action mailed June 25, 2007

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# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/028,089 | 12/31/2004 | Christopher Hercules Claudatos | L182US | 8670 |

7590 06/25/2007

Theodore A. Chen, Esq.
EMC Corporation
2350 West El Camino Real
Mountain View, CA 94040

| EXAMINER |
|---|
| CHEMPAKASERIL, ANN J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2169 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/25/2007 | 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) |
|---|---|---|
| | 11/028,089 | CLAUDATOS ET AL. |
| | Examiner | Art Unit |
| | Ann J. Chempakaseril | 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 31 December 2004.

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) 1-22 is/are pending in the application.

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

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-22 is/are rejected.

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

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

**Application Papers**

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

10)☒ The drawing(s) filed on 31 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 _____.

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

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

## DETAILED ACTION

1. Claims 1-22 are pending.

### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a) because they fail to show details as described in the specification. Figures 1, 4, 7b, 8, and 10 have diagram boxes that do not have any descriptive material in them. Fig. 6 has dark boxes with descriptions that are barely legible. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). 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.

### *Claim Rejections - 35 USC § 101*

3. 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.

**Claims 1-22** are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

To be statutory, a claimed computer-related process must either: (A) result in a physical transformation outside the computer for which a practical application is either disclosed in the specification or would have been known to a skilled artisan, or (B) be limited to a practical application with useful, concrete and tangible result.

The claim recites for managing objects having classification levels, comprising: associating each classification level with at least one information policy; and assigning at least one object to at least a storage pool from the plurality of storage pools based on the classification level of the object.

For it to be a tangible result, it must be more than a thought or a computation and must have a real world value rather than being an abstract idea. The invention as recited in the claim, associating each classification level with at least one information management policy and assigning at least one object to at least a storage pool based

on the classification level. It is unclear as to what kind of tangible output is obtained by assigning at least one object to at least a storage pool based on the classification level.

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 USC 101. As such, they fail to fall within a statutory category.

### *Claim Rejections - 35 USC § 102*

4. 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 (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

**Claims 1-10, 15, and 20-22** are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2004/0199566 issued to Carlson et al. (hereinafter "Carlson").

As per **claims 1, 20, 21, and 22**, Carlson discloses managing objects having classification levels in an information management system having a plurality of storage pools **(a data management system, method, and apparatus that intelligently stores files in storage pools with a variety of performance levels based policies and the nature of the storage pools [0010])** , the method comprising:

associating each classification level with at least one information management policy **(Each of the policies preferably includes a number of rules designed to select a service class for a file based on attributes of the file. Service classes may be hierarchical, for example, platinum, gold, silver, or bronze, reflecting the relative importance of the data. [0013])**;

and assigning at least one object to at least a storage pool from the plurality of storage pools based on the classification level of the object **(The service class policy 220 includes at least one service class rule that dictates what service class is applied to a file with a given attribute. The storage policy 230 similarly has at least one storage pool rule that dictates which of the storage pools 150, 152, 154 should receive a file with a given attribute. The service class policy 220 is used to select from among a plurality of service classes, such as the service classes 280, 282, 284, 286, and the storage policy 230 is used to select from among a plurality of storage pools, such as the storage pools 150, 152, 154 depicted in FIG. 1. The service class may be a factor in determining the appropriate storage pool. [0051-0053])**

As per **claim 2**, Carlson discloses associating each of the plurality of storage pools with a classification level **(Storage pools may comprise a plurality of storage types. These types include storage systems with lower probability of successful data recovery to one with the greatest disaster recovery among other factors. [0043-0046])**

As per **claim 3**, Carlson discloses assigning the at least one object includes assigning the object to a storage pool with a classification level corresponding to the classification level of the object **(the storage policy 230 may be designed to select the storage pool 150, 152, and/or 154 based solely upon the applicable service class 280, 282, 284, or 286. The storage pool policy 230 may then have only one storage pool rule 250, 252, 254 per service class 280, 282, 284, 286. For example, all files with the bronze service class 286 may be stored in the first storage pool 150, while files with the silver service class 284 are stored in the second storage pool 152 for greater speed and data recoverability. Under this example, files with the gold service class 282 may be stored in the third storage pool 154 for yet greater speed and data recoverability. [0058])**

As per **claim 4**, Carlson discloses applying the at least one information management policy to the objects in the storage pool having the classification level associated with the at least one information management policy **(A file evaluation module is preferably configured to apply the rules of the service class policy and the storage pool policy to the file attributes and the storage pool characteristics to automatically select a service class and a storage pool for the file. [0014] Hence, the service class selection module applies the rules 240, 242, 244 of the service class policy 220 to the file attributes 340 to determine which of the service classes 280, 282, 284, 286 is appropriate for the file 310. [0067])**

As per **claim 5**, Carlson discloses the at least one information management policy includes an action to be performed relating to the object, and the method further

comprises performing the action **(When the service class selection module 352 determines that the file attributes 340 satisfy the requirements of a rule, the service class selection module 352 assigns the corresponding service class 280, 282, 284, 286 to the file 310. Thus, an action is performed when the service class is assigned to the information group. [0067])**

As per **claim 6**, Carlson discloses the at least one information management policy indicates at least one parameter selected from the group comprising performance, latency, bandwidth, security, availability, backup frequency, level of encryption, number of copies, compression, media type, data migration, retention period, or access control **(The service class designation 364 may also include specific information related to the selected service class 280, 282, 284, or 286, such as the recoverability (availability), performance, and allocation scheme (i.e., sparse versus dense storage) requirements pertaining to the service class 280, 282, 284, or 286. [0070])**

As per **claim 7**, Carlson discloses performing the action includes using the at least one parameter to perform the action on the object **(Controlling handling of the file based on the service class comprises taking action on at least one of the group consisting of input/output speed, random access memory allocation, performance priority, and cache [0070])**

As per **claim 8**, Carlson discloses the action includes copying the object to a storage device apart from the storage pool **(Copies of the file and its attributes are**

**on the meta data disk server [0074] Thus, a file 310 to be stored may be transmitted, in its entirety, to the metadata server 125 [0080])**

As per **claim 9**, Carlson discloses the storage device is remotely located from the storage pool **(The metadata disk server and storage pools are housed in geographically disparate locations [0041])**

As per **claim 10**, Carlson discloses the objects are stored in source storage. **(The network 100 may be configured in such a manner that the clients 102, 104, 106, 108 are only able to communicate with the SAN 130 through the metadata server 125. Thus, a file 310 to be stored may be transmitted, in its entirety, to the metadata server 125 [0080])**

As per **claim 15**, Carlson discloses moving the objects to the plurality of storage pools **(A file 310 to be stored may be transmitted, in its entirety, to the metadata server 125, which then assigns one or more storage pools 150, 152, and/or 154 and a service class 280, 282, 284, 286 as in FIG. 3. The metadata server 125 then transmits the file 310 to the appropriate storage pool(s) 150, 152, and/or 154. [0080])**

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**Claims 11-14** are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, in view of Shaath et al. (US Patent Publication 2006/0010150; hereinafter "Shaath").

As per **claim 11**, Carlson discloses the method as recited in claim 10 **(The network 100 may be configured in such a manner that the clients 102, 104, 106, 108 are only able to communicate with the SAN 130 through the metadata server 125. Thus, a file 310 to be stored may be transmitted, in its entirety, to the metadata server 125 [0080])**

Carlson does not explicitly teach, "copying the objects to the plurality of storage pools" as claimed

Shaath teaches the claimed copying the objects to the plurality of storage pools **(The cabinet stores replicas of the files in the virtual drawers, which are seen as storage pools, [0028])**

Carlson and Shaath analogous art because both relate to electronic file management.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method as taught by Carlson to copy the object to the

storage pool by making replicas as taught by Shaath in order to have several instances of a file exist in the virtual space; paragraph [0011]. Modification would allow the file to be accessible for the entire lifespan.

As per **claim 12**, Shaath discloses accessing the objects in the source storage for use by an application **(the file lifecycle allows the file to be accessed throughout its existence, regardless of where it is located within the network. A file may exist on any of the storage components or servers that comprise a virtual storage space. An application to replicate or backup the file etc., can be done by the overall system in any location of the virtual space [0008])**

As per **claim 13**, Shaath discloses, accessing the objects in the storage pool to perform information protection operations **(Several instances of a file may exist within a virtual space allowing the overall system to perform such tasks as load balancing, high availability, replication, backup and mirroring. [0008] Virtual storage spaces have virtual drawers, which are seen as storage pools. [0027])**

As per **claim 14**, Shaath discloses performing information protection operations includes performing at least one of the group comprising backup, replication, mirroring, or failover **(Several instances of a file may exist within a virtual space allowing the overall system to perform such tasks as load balancing, high availability, replication, backup and mirroring. [0008])**

**Claims 16-19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Carlson, in view of Pudipeddi et al. (US Patent 6889232); hereinafter "Pudipeddi".

As per **claim 16**, Carlson discloses the method as recited in claim 15 **(A file 310 to be stored may be transmitted, in its entirety, to the metadata server 125, which then assigns one or more storage pools 150, 152, and/or 154 and a service class 280, 282, 284, 286 as in FIG. 3. The metadata server 125 then transmits the file 310 to the appropriate storage pool(s) 150, 152, and/or 154. [0080])**

Carlson does not explicitly teach, "placing, on the source storage, links to the objects in the storage pools" as claimed

Pudipeddi teaches the claimed placing, on the source storage, links to the objects in the storage pools **(Remote storage filter 1002 passes the request to file system 1004, which, in turn, locates the requested file on the appropriate volume 1006. [Column 18, line 17] File system 1004 may maintain a set of reparse points 1012. [Column 18, line 36])**

Carlson and Pudipeddi are analogous art because both relate to data migration.

It would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method as taught by Carlson to place links to the objects in the storage pools as taught by Pudipeddi so that the file is available to the user as taught by Pudipeddi; paragraph [0011]. Modification would provide a technique for managing migration jobs in a manner that efficiently uses hardware and media.

As per **claim 17**, Pudipeddi discloses the links include at least one of the group comprising a stub, shortcut, symbolic link, or Windows reparse point **(Migration engine**

**1016 also includes logic that sets reparse points 1012 in file system 1004, and provides the location of the migrated files so that such locations can be included as data in reparse points [Column 19, lines 30-33])**

As per **claim 18**, Pudipeddi discloses accessing the objects in the storage pool to perform information protection operations **(Several instances of a file may exist within a virtual space allowing the overall system to perform such tasks as load balancing, high availability, replication, backup and mirroring. [0008] Virtual storage spaces have virtual drawers, which are seen as storage pools. [0027])**

As per **claim ~~18~~ 19**, Pudipeddi discloses performing information protection operations includes performing at least one of the group comprising backup, replication, mirroring, or failover **(Several instances of a file may exist within a virtual space allowing the overall system to perform such tasks as load balancing, high availability, replication, backup and mirroring. [0008])**

***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See **MPEP 707.05**.

US Patent 7007048 issued to Murray et al.

US Patent Application Publication 6633835 issued to Moran et al.

***Contact Information***

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ann J. Chempakaseril whose telephone number is 571-272-9767. The examiner can normally be reached on Monday through Thursday, 9-4. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pierre Vital can be reached on 571-272-4215. 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.

Ann Chempakaseril
Ann J Chempakaseril
Examiner
Art Unit 2169

June 11, 2007

SA

Pierre Vital
PIERRE VITAL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Theodore A. Chen
EMC Corporation
6801 Koll Center Parkway
Pleasanton CA 94566

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| In re Application of | : | |
| Claudatos et al. | : | |
| Application No. 11/028089 | : | DECISION |
| Filing or 371(c) Date: 12/31/2004 | : | ON PETITION |
| Attorney Docket Number: L182US | : | |

This is a decision on the Request for Reconsideration of Petition to Revive Patent Application Unavoidably Abandoned Under 37 CFR 1.137(a), filed June 13, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the non-final Office action, mailed June 25, 2007. The Office action set a three (3) month period for reply. Extensions of time were available under 37 CFR 1.136(a). No timely and proper reply having been received, the application became abandoned on September 26, 2007. A Notice of Abandonment was mailed March 7, 2008.

The March 14, 2008 petition

Applicant filed a petition on March 14, 2008 and asserted that the Office action was not received. Applicant noted that the Office action was mailed to an old correspondence address.

The petition was dismissed in a Decision mailed April 14, 2008. The Decision dismissing the petition informed Applicant that Office records revealed that Applicant filed a change of correspondence address on January 15, 2008. The non-final Office action was mailed on June 25, 2007. The Office action was returned to this Office on July 3, 2007. No explanation as to why the Office action was returned appeared in the application file.

As to Applicant's assertion, that a change of correspondence address was filed on January 15, 2008, Applicant had not stated when the address change actually occurred. Applicant was required to file a declaration attesting to Applicant's correspondence address at the time the Office action was mailed – June 25, 2007.

Additionally, Applicant was required to file a reply to the Office action. A copy of the non-final Office action was enclosed with the Decision. The petition was dismissed without prejudice.

The present request for reconsideration

Applicant files the present request for reconsideration of petition and provides that a Request for Customer Number Data Change was filed on April 11, 2005. This Office mailed a Notice of Customer Number Record Change. Applicant believed that the change of address had become effective, because, Applicant asserts, Applicant received correspondence from this Office relating to other patent applications filed by Applicants and using the same customer number. Applicant does not state when the applications were filed, prior to or after the customer number data change was filed, nor does Applicant provide any of the application numbers from which correspondence was received using the same customer number.

Office records

A review of Office records reveals that the application as-filed on December 31, 2004, did not include an executed oath/declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application on March 7, 2005, requiring, *inter alia*, an executed oath/declaration.

The application did include a Transmittal Form, wherein Applicant provided the correspondence address of 2350 West El Camino Real, Mountain View, CA 94040. The Transmittal Form also included the customer number 30368. The correspondence address associated with customer number 30368 was the same as the correspondence address provided in the Transmittal Form. Since the correspondence addresses were not different, this Office used the typed correspondence address, and did not associate this application with the customer number. *Accord* 37 CFR 1.33(a).

Thereafter, on April 11, 2005, Applicant filed a Request for Customer Number Data Change, which was accepted by this Office on that date as noted in the Notice of Customer Number Record Change, a copy of which was filed with the present petition. However, because the address associated with the present application was entered using the typed correspondence address appearing in the Transmittal Form, the change in the customer number address was not reflected in the present application's correspondence address.

On April 14, 2005, Applicant filed an executed oath/declaration, which changed the correspondence address to the current correspondence address – which is the same correspondence address requested in the Request for Customer Number Data Change, filed on April 11, 2005. This Office failed to note the new correspondence address appearing in the executed oath/declaration. *Accord* 37 CFR 1.33(a)(2).

Conclusion

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

The application will be referred to Technology Center Art Unit 2166 for processing of the reply filed with the petition in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

**JAECKLE FLEISCHMANN & MUGEL**
**190 LINDEN OAKS**
**ROCHESTER, NY 14625-2812**

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| | | |
|---|---|---|
| In re Application of | : | |
| Nicholas D. Trbovich Jr. | : | |
| Application No. 11/028,091 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 90832.145403US | : | 37 CFR 1.102(d) |
| | : | |

This is a decision on the petition under 37 CFR § 1.102(d), filed April 13, 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 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 3724 for action on the merits commensurate with decision.

Denise Pothier
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

JUL 28 2005

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| In re Application of | : | |
| Andrew W. Kull | : | |
| Serial No. 11/028,108 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | TO MAKE SPECIAL |
| For: MEDIA STORAGE DEVICE | : | |

Applicant's petition, filed February 9, 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

James J. Lillie
Lillie Law, LLC
269 Southport Street
Rokonkoma, NY 11779-6222

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Alexandria, VA 22313-1450
www.uspto.gov

WILLIAM B. DEVEER
116-17 128TH ST
S. OZONE PARK NY 11420

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MAR 14 2006

**OFFICE OF PETITIONS**

In re Application of :
Deveer :
Application No. 11/028,112 : ON PETITION
Filed: January 3, 2005 :
Attorney Docket No. N/A :
For: ANTISEPTIC BIDET IN COMBINATION WITH A HYGIENE SAFETY GUARD

This is a decision on the petition under 37 CFR 1.181, filed November 1, 2005, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive the above-identified application must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. This is **not** final agency action within the meaning of 5 U.S.C. § 704.

This application was held abandoned for failure to respond in a timely manner to Notice to File Missing Parts of Nonprovisional Application, mailed February 24, 2005, which set forth an extendable two (2) month period to submit an executed declaration and a $65.00 surcharge for its late filing. This application became abandoned on April 25, 2005 for failure to reply. A Notice of Abandonment was mailed on October 27, 2005.

Petitioner asserts that a reply was timely mailed via USPS Express Mail service to the Office on March 3, 2005. The Office has no record of receiving a reply.

The petition is accompanied by, *inter alia*, an executed declaration and a copy of Express Mail label no. ED282906797US showing a date-in of "03 03 05" and a postal date stamp of "MAR 3 2005" .

Paragraph (e) of 37 CFR 1.10 states that:

> Any person mailing correspondence addressed as set out in 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the

USPS, but not received by the Office, may petition the Director to consider such correspondence as filed in the Office on the USPS deposit date, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

The petition lacks (2), (3), and (4) above.

A review of the declaration allegedly placed into Express Mail service on March 3, 2005 reveals that there is no Express Mail label number affixed to it. Petitioner has not provided acceptable evidence to identify the particular documents placed in the Express Mail package bearing label no. ED282906797US on March 3, 2005.

It is noted that the $65.00 surcharge was not submitted until November 18, 2005, which was well after the expiration of the extendable period for reply.

In short, petitioner has not provided acceptable evidence to link the declaration allegedly mailed on March 3, 2005 with Express Mail label no. ED282906797US and petitioner has not addressed the post-abandonment payment of the $65.00 surcharge.

A reasonable person acting with due care and diligence would have filed the correspondence in compliance with 37 CFR 1.8 or 1.10 to ensure its timely filing in the PTO, as well as preserve adequate evidence of such filing, a delay caused by an applicant's failure to file correspondence in compliance with 37 CFR 1.8 and 1.10 does not constitute unavoidable delay. *Krahn v. Commissioner of Patents and Trademarks*, 15 U.S.P.Q.2d (BNA) 1823 (E.D. Va. 1990).

The petition under 37 CFR 1.181 is **DISMISSED**. Petitioner is encouraged to file a petition under the unintentional standard of 37 CFR 1.137(b). A blank copy of the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b) is enclosed for petitioner's convenience. The small entity Rule 137(b) petition fee is $750.00.

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

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

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

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

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

enclosures: blank copy of the Petition for Revival of an Application for Patent Abandoned Unintentionally under 37 CFR 1.137(b)

Privacy Act Statement

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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



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

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

| | |
|---|---|
| Signature | Date |
| Typed or printed name | Registration Number, if applicable |
| Address | Telephone Number |
| Address | |

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

| | |
|---|---|
| Date | Signature |
| | Typed or printed name of person signing certificate |

# Privacy Act Statement

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

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

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

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

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

(1) The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.

(2) A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

(3) A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

(4) A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

(5) A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

(6) A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

(7) A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

(8) A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.

(9) A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

| | | |
|---|---|---|
| In re Application of | : | |
| Ismael Gracia BOBED | : | DECISION ON PETITION |
| Application No. 11/028,113 | : | UNDER 37 CFR 1.78(a)(3) AND |
| Filed: January 3, 2005 | : | UNDER 37 CFR 1.55(c) |
| Attorney Docket No. 2002P00891WOUS | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/06770, filed June 26, 2003, and under 35 U.S.C. § 119(a)-(d), as set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/006770).

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

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

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

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the***

***benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

The petition under 37 CFR 1.55(c) is **DISMISSED.**

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

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);
(3) the surcharge as set forth in 37 CFR 1.17(t);
(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and
(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

The instant petition does not comply with item (2).

The amendment filed April 28, 2006 fails to identify the prior-filed foreign application by its proper application number, *i.e.*, P200201643.

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,113 | 01/03/2005 | 1746 | 1430 | 2002P00891WOUS | 2 | 22 | 4 |

**CONFIRMATION NO. 8802**

**CORRECTED FILING RECEIPT**

*OC000000021265086*

000046726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 11/16/2006

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)**

Ismael Gracia Bobed, Zaragoza, SPAIN;

**Assignment For Published Patent Application**

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

**Power of Attorney:**

John Winburn--26822
Russell Warnock--32860
Craig Loest--48557

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/EP03/06770 06/26/2003

**Foreign Applications**

SPAIN P200201643 07/03/2002

**If Required, Foreign Filing License Granted:** 02/22/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,113**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Washing machine drum

**Preliminary Class**

068

## 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).

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

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

**NOT GRANTED**

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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DRINKER BIDDLE & REATH
ATTN: INTELLECTUAL PROPERTY GROUP
ONE LOGAN SQUARE
18TH AND CHERRY STREETS
PHILADELPHIA PA 19103-6996

**COPY MAILED**

FEB 12 2008

**OFFICE OF PETITIONS**

ON PETITION

In re Application of :
Gupta :
Application No. 11/028,114 :
Filed: December 30, 2004 :
Attorney Docket No. 37427-0005-00-US :
For: PARENTERAL ADMINISTRATION OF PYROPHOSPHATE FOR PREVENTION OR TREATMENT OF PHOSPHATE OR PYROPHOSPHATE DEPLETION

This is a decision on the petition, filed December 26, 2007 (certificate of mailing date December 21, 2007), under 37 CFR 1.137(a) to revive the above-identified application and the constructive petition under 37 CFR 1.137(b) filed in the same paper.

It is noted that petitioner utilized an Office form intended for revival where the delay is alleged to be unavoidable. However, the undersigned will treat the petition under 37 CFR 1.137(b) because a Rule 137(b) small entity petition fee was submitted with the petition, the Fee Transmittal for FY 2007 that accompanied the petition states the fee description is "petition to revive-unintentional," petitioner has not provided any showing as to the cause of the unavoidable delay, and the amendment filed with the petition states, "...This response is filed in conjunction with a request for revival of an unintentionally abandoned application and fee submitted herewith...". If the undersigned has misconstrued petitioner's intent, please respond promptly and accordingly.

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

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

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the April 26, 2007 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on July 27, 2007. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioner has submitted an amendment in reply to the April 26, 2007 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the April 26, 2007 non-final Office action, and the $770.00 petition fee.

The statement of unintentional delay presented in the petition does not comply with the current rule. 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" be submitted. However, the statement presented will be accepted and construed as meaning 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." If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

In addition, 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.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1797 for consideration of the amendment filed on December 26, 2007 (certificate of mailing date December 21, 2007).

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORION LAW GROUP
3 HUTTON CENTRE
SUITE 850
SANTA ANA, CA 92707

MAILED
FROM DIRECTOR'S OFFICE

OCT 03 2007

TECHNOLOGY CENTER 3600

In re application of
James Williams et al.
Application No. 11/028,122
Filed: December 30, 2004
For: SYSTEM AND METHOD OF INTEGRATING INFORMATION RELATED TO HEALTH CARE SAVINGS ACCOUNTS AND HEALTH CARE PLANS

**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on February 17, 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(h); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

The petition fails to adequately meet requirement (B) above. In this regard, item (B) is not met because the petition fails to include an election without traverse, or a statement that applicants are willing to elect without traverse should a restriction or election be required.

For the above stated reasons, the petition is **DISMISSED**.

Petitioner is given one more opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted.

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

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

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

KJD/slb: 09/24/07

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UNITED STATES DEPARTMENT OF COMMERCE
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/028,122 | 12/30/2004 | James Williams | 1067.P0001US | 8836 |

65068 7590 02/08/2008
ORION LAW GROUP
3 HUTTON CENTRE
SUITE 850
SANTA ANA, CA 92707

| EXAMINER |
|---|
| GLASS, RUSSELL S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 3626 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/08/2008 | PAPER |

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

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

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FROM DIRECTORS OFFICE

FEB 07 2008

TECHNOLOGY CENTER 3600

ORION LAW GROUP
3 HUTTON CENTRE
SUITE 850
SANTA ANA, CA 92707

In re application of
James Williams et al.
Application No. 11/028,122
Filed: December 30, 2004
For: SYSTEM AND METHOD OF INTEGRATING INFORMATION RELATED TO HEALTH CARE SAVINGS ACCOUNTS AND HEALTH CARE PLANS

**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the renewed petition filed on January 17, 2008 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/slb: 02/04/2008

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,134 | 12/30/2004 | 2837 | 1000 | 060943-5029 | 4 | 16 | 1 |

**CONFIRMATION NO. 9536**

**CORRECTED FILING RECEIPT**

*OC000000015720012*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/12/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)**

Sung Young Shim, Ulsan, KOREA, REPUBLIC OF;
Chung Kil Jung, Gyeonggi-Do, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2003-0101955 12/31/2003
REPUBLIC OF KOREA 10-2004-0089345 11/04/2004

**If Required, Foreign Filing License Granted:** 02/17/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,134**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Sound absorbing material for a vehicle

**Preliminary Class**

181

---

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

**GRANTED**

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

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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**

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,135 | 12/30/2004 | 3652 | 1000 | 060943-5015 | 9 | 13 | 2 |

**CONFIRMATION NO. 9538**

**CORRECTED FILING RECEIPT**

*OC000000015707654*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Kwan Hum Park, Gunpo-si, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 2004-32275 05/07/2004

**If Required, Foreign Filing License Granted:** 02/17/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,135**

**Projected Publication Date:** 11/10/2005

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

BEST AVAILABLE COPY

Lift apparatus for vehicle for the handicapped

**Preliminary Class**

414

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

**GRANTED**

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**NOT GRANTED**

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,136 | 12/30/2004 | 3681 | 1200 | 060944-5067 | 16 | 24 | 2 |

**CONFIRMATION NO. 9539**

**CORRECTED FILING RECEIPT**

*OC000000015720767*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/12/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)**

Jong Sool Park, Gyunggi-do, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0071077 09/07/2004

**If Required, Foreign Filing License Granted:** 02/18/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,136**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

ST AVAILABLE COPY

Six-speed powertrain of an automatic transmission

**Preliminary Class**

475

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

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**NOT GRANTED**

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LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

In re Application of
Linebarger, et al.
Application No.: 11/028,141
Filed: December 30, 2004
Attorney Docket No. MWS-162
For: GENERATION OF CODE FROM A GRAPHICAL MODEL

: DECISION GRANTING
: PETITION

COPY MAILED

APR 11 2005

OFFICE OF PETITIONS

This is a decision on the petition under 37 CFR 1.10(c), filed February 11, 2005, requesting that the above-identified application be accorded a filing date of December 30, 2004, instead of the filing date listed on the postcard receipt for this application, which is January 3, 2005.

Petitioners allege that the application was deposited in Express Mail service with the U. S. Postal Service, on December 30, 2004. In support, petitioners provided a copy of the Express Mail label, receipt no. EV418602130US, showing a Date In of "12 30 04" and a postal date stamp of "DEC 30 2004." The same Express Mail label number is referenced in the Utility Patent Application Transmittal filed with the application papers. Petitioners request that the application be accorded a filing date of December 30, 2004.

The Office considers the date the paper or fee is shown to have been deposited as Express Mail to be the Date In on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as Express Mail with the U.S. Postal Service on December 30, 2004.

In view of the above, the petition is granted. As this is a feeless petition, no petition fee has been or will be charged.

The application will be returned to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of **December 30, 2004**. OIPE will mail a filing receipt listing a filing date of December 30, 2004 for the above-identified application in due course.

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

E Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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Paper No. _____

Date : June 30, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :Bruce A. Williams et al
Application No. :11/028,144
Filed :January 3, 2005

The above-identified application has been assigned Patent No. 7,074,184 and an issue date of July 11, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of July 11, 2006:

"All reference to Patent No. 7,074,184 to Bruce A. Williams of New Jersey for METHODS FOR DELIVERING A DRUG TO A PATIENT WHILE RESTRICTING ACCESS TO THE DRUG BY PATIENTS FOR WHOM THE DRUG MAY BE CONTRAINDICATED appearing in the Official Gazette of July 11, 2006 should be deleted since no patent was granted."

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

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JUN 30 2006
OFFICE OF PETITIONS

**WOODCOCK WASHBURN LLP**
**ONE LIBERTY PLACE, 46TH FLOOR**
**1650 MARKET STREET**
**PHILADELPHIA PA 19103**

| | | |
|---|---|---|
| In re Application of | : | |
| Bruce A. Williams | : | |
| Application No. 11/028,144 | : | ON PETITION |
| Filed: January 3, 2004 | : | |
| Attorney Docket No. CELG-0431 | : | |

This is a decision on the petition, filed June 21, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

**Petitioner is advised that the issue fee paid on May 22, 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 3736 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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PHILADELPHIA, PA 19103

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MAY 23 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Samuel N. Zellner et al | : | |
| Application No. 11/028,145 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | TO WITHDRAW |
| Attorney Docket No. BELL-0350/99164C1 | : | 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 9, 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 2617 to await a reply to the final Office action mailed December 6, 2005.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: LEE & HAYES
421 W. RIVERSIDE AVE
SUITE 500
SPOKANE, WA 99201

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,146 | 12/30/2004 | 3681 | 1200 | 060944-5063 | 16 | 24 | 2 |

**CONFIRMATION NO. 9533**

**CORRECTED FILING RECEIPT**

*OC000000015719998*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/12/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)**

Jong Sool Park, Gyunggi-Do, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0071079 09/07/2004

**If Required, Foreign Filing License Granted:** 02/24/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,146**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

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Six-speed powertrain of an automatic transmission

**Preliminary Class**
475

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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**NOT GRANTED**

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,147 | 12/30/2004 | 3681 | 3200 | 060944-5076 | 26 | 64 | 3 |

**CONFIRMATION NO. 9529**

**CORRECTED FILING RECEIPT**

*OC000000015707685*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Hyu Tae Shim, Hwaseong-city, KOREA, REPUBLIC OF;
Ki Been Lim, Suwon-city, KOREA, REPUBLIC OF;
Gyung Cheol Lee, Gunpo-city, KOREA, REPUBLIC OF;
Byeong Ho Soh, Hwaseong-city, KOREA, REPUBLIC OF;
Gang Soo Seo, Suwon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0059261 07/28/2004

**If Required, Foreign Filing License Granted:** 02/24/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,147**

**Projected Publication Date:** 02/02/2006

**Non-Publication Request:** No

**Early Publication Request:** No

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**Title**

Six-speed powertrain of an automatic transmission

**Preliminary Class**

475

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## LICENSE FOR FOREIGN FILING UNDER
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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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**NOT GRANTED**

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JUL 12 2007

KIRTON AND MCCONKIE
60 EAST SOUTH TEMPLE,
SUITE 1800
SALT LAKE CITY UT 84111

| | |
|---|---|
| In re Application of | : |
| Reid Taintor | : |
| Serial No.: 11/028,155 | : PETITION DECISION |
| Filed: January 3, 2005 | : |
| Attorney Docket No.: 14200.2 | : |

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed October 2, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact William R. Dixon, Jr., by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0519 or by facsimile transmission at 571-273-8300.

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

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United States Patent and Trademark Office
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PROCOPIO, CORY, HARGREAVES & SAVITCH LLP
530 B STREET
SUITE 2100
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Gerald D. Buckberg | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594886 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,162 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1306** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 07/23/2010

| | | |
|---|---|---|
| **Applicant** | : Cory S. Modlin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646804 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/028,177 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1348** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FEB - 7 2006

PRESTON GATES ELLIS & ROUVELAS MEEDS LLP
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON DC 20006

| | |
|---|---|
| In re Application of | : |
| John A. Giordano et al | : |
| Serial No.: 11/028,180 | : PETITION TO MAKE SPECIAL |
| Filed: January 4, 2005 | : |
| Attorney Docket No.: 48508-00067 | : |

This is in response to the petition filed January 24, 2006, to make the above-identified application special under the provisions of 37 CFR 1.102(d) based on infringement.

Applicants appear to have made the statements relating to the provisions set forth in M.P.E.P. 708.02, II, relating to actual or potential infringement, however Exhibit A, indicated as being attached, appears not to have been submitted. Applicants allege that claims are infringed, but fail to indicate which claims are infringed.

Therefor the petition is **DISMISSED**. Applicants may submit a renewed petition correcting the apparent deficiencies of this petition without additional fee.

**The application will be taken up for action by the examiner in due course.**

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

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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PRESTON GATES ELLIS & ROUVELAS MEEDS
1735 NEW YORK AVENUE, NW, SUITE 500
WASHINGTON, DC 20006

COPY MAILED

MAR 27 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John A. Giordano et al | : | |
| Application No. 11/028,180 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 48508-00067 | : | 37 CFR 1.102(d) |

This is a decision on the renewed petition under 37 CFR §1.102(d), filed February 16, 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 Wan Laymon at 571-272-3220.

This matter is being referred to Technology Center Art Unit 1614 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
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Alexandria, VA 22313-1450
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**BLANK ROME LLP**
**WATERGATE**
**600 NEW HAMPSHIRE AVENUE, N.W.**
**WASHINGTON, DC 20037**

**COPY MAILED**

MAR 1 6 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William W. **KELLER, et al.** | : | |
| Application No. 11/028,222 | : | DECISION ON PETITION TO |
| Filed: January 4, 2005 | : | WITHDRAW FROM RECORD |
| Attorney Docket No. **119544-00102** | : | UNDER 37 CFR 1.36(b) |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 14, 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 Minh-Quan K. Pham 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 communications from the Office will be directed to the first named signing inventor William W. Keller at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final office action mailed September 25, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

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

cc: **WILLIAM KELLER**
**1150 EARNHEART ROAD**
**BATESVILLE, AR 72501**

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,257 | 12/30/2004 | 3681 | 1200 | 060944-5065 | 16 | 24 | 2 |

**CONFIRMATION NO. 1243**

**CORRECTED FILING RECEIPT**

*OC000000015757931*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/15/2005

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

**Applicant(s)**

Jong Sool Park, Gyunggi-Do, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0071081 09/07/2004

**If Required, Foreign Filing License Granted:** 02/26/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,257**

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

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Six-speed powertrain of an automatic transmission

BEST AVAILABLE COPY

**Preliminary Class**

475

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,258 | 12/30/2004 | 3747 | 1130 | 060944-5070 | 3 | 10 | 1 |

**CONFIRMATION NO. 1244**

**UPDATED FILING RECEIPT**

*OC000000017125514*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 09/29/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)**

Moo Yong Kim, Suwon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0044077 06/15/2004

**If Required, Foreign Filing License Granted:** 04/05/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,258**

**Projected Publication Date:** 01/05/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Sensing apparatus for a vehicle

**Preliminary Class**

123

## 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).

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

**GRANTED**

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY & POPEO, P.C.
ONE FINANCIAL CENTER
BOSTON, MA 02111

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yuh-Cherng Wu | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7624377 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,261 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1158** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 P. MORRIS**
**BOEHRINGER INGELHEIM CORPORATION**
**900 RIDGEBURY ROAD**
**P.O. BOX 368**
**RIDGEFIELD CT 06877-0368**

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JAN 16 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Thierry Bouyssou et al | : | |
| Application No. 11/028,264 | : | DECISION GRANTING PETITION |
| Filed: January 3, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 01-1599 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 15, 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 21, 2007 ***cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 1626 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,269 | 12/30/2004 | 3681 | 1200 | 060944-5062 | 16 | 24 | 2 |

**CONFIRMATION NO. 1717**

**CORRECTED FILING RECEIPT**

*OC000000015695836*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/08/2005

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

**Applicant(s)**

Jong Sool Park, Suwon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0071078 09/07/2004

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,269**

**Projected Publication Date:** 03/09/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Six-speed powertrain of an automatic transmission

**Preliminary Class**
475

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

**GRANTED**

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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 |
|---|---|---|---|---|---|---|---|
| 11/028,271 | 12/30/2004 | 3747 | 1000 | 060944-5051 | 4 | 5 | 1 |

**CONFIRMATION NO. 1724**

**CORRECTED FILING RECEIPT**

*OC000000015696449*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Dae Sung Park, Suwon-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0046110 06/21/2004

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,271**

**Projected Publication Date:** 12/22/2005

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Variable intake system of a vehicle

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**Preliminary Class**
123

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

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05798
NOV - 7 2005
PATENT & TRADEMARK OFFICE

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Group Art Unit: 1732
Examiner: Not yet assigned Tentoni, Leo
PD File: H27117

In re Application of: KAVESH
Serial No.: 11/028273 11/028273
Filed: 1-3-05 January 3, 2005
For: **SOLUTION SPINNING OF UHMW POLY (ALPHA-OLEFIN) WITH RECOVERY AND RECYCLING OF VOLATILE SPINNING SOLVENT**

Colonial Heights, VA 23834
November 1, 2005

**PETITION UNDER 37 CFR § 1.102(c)**

**AND**

**SECTION 708.02 IV OF THE MPEP**

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 23313-1450

Attn: Technology Center 1700

Dear Sir or Madam:

Patent application Serial No. 11/028273 was filed in the name of the inventor Sheldon Kavesh. Mr. Kavesh who was born January 15, 1933 has reached the age of 72. The process of his invention would materially advance the maintenance of the environment by minimizing discharge of solvents into the air.

37 CFR § 1.102(c) provides for filing a petition to make an application special without a fee if the basis for the petition is the applicant's age or health.

PETITION GRANTED

William Krynski
Special Program Examiner
TC1700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET
SECOND FLOOR
PALO ALTO CA 94306

COPY MAILED

OCT 29 2007

OFFICE OF PETITIONS

In re Application of :
Richard A. HARRIS : DECISION ON PETITION
Application No. 11/028,277 : UNDER 37 CFR 1.78(a)(3)
Filed: January 3, 2007 :
Attorney Docket No. FLT-136/PCT/US :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 21, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/AU03/00848, filed July 2, 2003, set forth in the accompanying amendment to the specification.

The petition under 37 CFR 1.78(a)(3) is **GRANTED.**

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

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

37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 and 365(c) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 2836 for appropriate action on the amendment filed September 21, 2007, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

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| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/028,277 | 01/03/2005 | 2836 | 745 | FLT-136/PCT/US | 15 | 3 |

**CONFIRMATION NO. 1746**

**CORRECTED FILING RECEIPT**

30869
LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET
SECOND FLOOR
PALO ALTO, CA 94306

*OC000000026484892*

Date Mailed: 10/26/2007

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

**Applicant(s)**
Richard A. Harris, Palo Alto, CA;

**Assignment For Published Patent Application**
Fultec Semiconductor, Inc., Mountain View, CA

**Power of Attorney:** The patent practitioners associated with Customer Number 30869

**Domestic Priority data as claimed by applicant**
This application is a CON of PCT/AU03/00848 07/02/2003

**Foreign Applications**
AUSTRALIA PS 3333 07/02/2002

**If Required, Foreign Filing License Granted:** 02/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/028,277**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Protection and indication apparatus

**Preliminary Class**

361

## 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).

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## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

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**NOT GRANTED**

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|---|---|---|---|---|---|---|---|
| 11/028,278 | 12/30/2004 | 3617 | 1000 | 060944-5068 | 9 | 12 | 2 |

**CONFIRMATION NO. 1750**

**CORRECTED FILING RECEIPT**

*OC000000015706085*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Hyun Chul Cho, Ulsan-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0073045 09/13/2004

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,278**

**Projected Publication Date:** 03/16/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Carrier moving system for a painting process

**Preliminary Class**

104

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# Title 37, Code of Federal Regulations, 5.11 & 5.15

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|---|---|---|---|---|---|---|---|
| 11/028,279 | 12/30/2004 | 3676 | 1000 | 061712-5041 | 10 | 5 | 1 |

**CONFIRMATION NO. 1768**

**CORRECTED FILING RECEIPT**

*OC000000015696477*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Young Un Ju, Hwansung-si, KOREA, REPUBLIC OF;
Nam Hyeok Lim, Gunpo-si, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/885,179 07/06/2004

**Foreign Applications**

REPUBLIC OF KOREA 10-2003-0071511 10/14/2003
REPUBLIC OF KOREA 10-2004-0022157 03/31/2004

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,279**

**Projected Publication Date:** 07/21/2005

**Non-Publication Request:** No

**Early Publication Request:** No

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**Title**

Trunk lid latch assembly for vehicle

**Preliminary Class**

292

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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|---|---|---|---|---|---|---|---|
| 11/028,280 | 12/30/2004 | 3679 | 1000 | 060944-5071 | 9 | 19 | 1 |

**CONFIRMATION NO. 1756**

**CORRECTED FILING RECEIPT**

*OC000000015708517*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Young Rae Song, Seoul, KOREA, REPUBLIC OF;
Tae Han Jee, Suwon-city, KOREA, REPUBLIC OF;
Jae Hoon Jung, Seongnam-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0052439 07/06/2004

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,280**

**Projected Publication Date:** 01/12/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Torsional vibration damper

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**Preliminary Class**

464

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

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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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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,285 | 12/30/2004 | 1745 | 1000 | 060943-5010 | 4 | 15 | 1 |

**CONFIRMATION NO. 1683**

**CORRECTED FILING RECEIPT**

*OC000000015707727*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Kyu Taek Cho, Gwangmyeong-si, KOREA, REPUBLIC OF;
Tae Won Lim, Seoul, KOREA, REPUBLIC OF;
Ki Chun Lee, Seongnam-si, KOREA, REPUBLIC OF;
Soo Whan Kim, Seongnam-si, KOREA, REPUBLIC OF;
Jong Hyun Lee, Seongnam-si, KOREA, REPUBLIC OF;
Su Hyun Choi, Ansan-si, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0021001 03/27/2004

**If Required, Foreign Filing License Granted:** 02/17/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,285**

**Projected Publication Date:** 09/29/2005

**Non-Publication Request:** No

**Early Publication Request:** No

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**Title**

Unit cell structure comprising composite-gasket for fuel cell stack

**Preliminary Class**

429

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## LICENSE FOR FOREIGN FILING UNDER
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## 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 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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|---|---|---|---|---|---|---|---|
| 11/028,286 | 12/30/2004 | 3636 | 1000 | 060944-5073 | 3 | 10 | 3 |

**CONFIRMATION NO. 1687**

**CORRECTED FILING RECEIPT**

*OC000000015695986*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Byoung Jae Lee, Seoul, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0029785 04/29/2004

**If Required, Foreign Filing License Granted:** 02/22/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,286**

**Projected Publication Date:** 11/03/2005

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

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Mounting structure for double-folding seats for vehicles

**Preliminary Class**

297

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

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**NOT GRANTED**

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

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|---|---|---|---|---|---|---|---|
| 11/028,288 | 12/30/2004 | 3616 | 1000 | 060945-5025 | 4 | 4 | 3 |

**CONFIRMATION NO. 1692**

**CORRECTED FILING RECEIPT**

*OC000000015707584*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Hyoung-Seung Ham, Uiwang-si, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0070832 09/06/2004

**If Required, Foreign Filing License Granted:** 02/22/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,288**

**Projected Publication Date:** 03/09/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Suspension system with automatic toe control function

**Preliminary Class**
280

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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**NOT GRANTED**

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|---|---|---|---|---|---|---|---|
| 11/028,289 | 12/30/2004 | 3681 | 2100 | 060944-5077 | 11 | 42 | 2 |

**CONFIRMATION NO. 1696**

**CORRECTED FILING RECEIPT**

*OC000000015696197*

43850
MORGAN, LEWIS & BOCKIUS LLP (SF)
2 PALO ALTO SQUARE
PALO ALTO, CA 94306

Date Mailed: 04/11/2005

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)**

Gang Soo Seo, Suwon-city, KOREA, REPUBLIC OF;
Ki Been Lim, Suwon-city, KOREA, REPUBLIC OF;
Hyu Tae Shim, Hwaseong-city, KOREA, REPUBLIC OF;
Gyung Cheol Lee, Gunpo-city, KOREA, REPUBLIC OF;
Byeong Ho Soh, Hwaseong-city, KOREA, REPUBLIC OF;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

REPUBLIC OF KOREA 10-2004-0063254 08/11/2004

**If Required, Foreign Filing License Granted:** 02/26/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,289**

**Projected Publication Date:** 02/16/2006

**Non-Publication Request:** No

**Early Publication Request:** No

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**Title**

Six-speed powertrain of an automatic transmission

**Preliminary Class**

475

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## Title 37, Code of Federal Regulations, 5.11 & 5.15

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**NOT GRANTED**

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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON, DC 20006

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Sang-kil Ahn | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623261 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,318 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1357** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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C/O GALASSO & ASSOCIATES, LP
P. O. BOX 26503
AUSTIN, TX 78755-0503

Mail Date: 05/25/2010

| | | |
|---|---|---|
| **Applicant** | : Vincent Magret | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7630299 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/028,346 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **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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3400 W. PLANO PARKWAY, MS LEGL2
PLANO, TX 75075

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OFFICE OF PETITIONS

In re Application of
Chiang Yeh et al
Application No. 11/028,347
Filed: December 30, 2004
Attorney Docket No. 134157

ON PETITION

This is a decision on the petition filed March 9, 2009 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed September 15, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 16, 2008.

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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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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APR 27 2010
OFFICE OF PETITIONS

RG AND ASSOCIATES
1103 TWIN CREEKS
ALLEN, TX 75013

| | | |
|---|---|---|
| In re Application of | : | |
| Laurence Rose | : | |
| Application No. 11/028,355 | : | ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. 134194 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed January 25, 2010, to revive the above-identified application.

The petition is **GRANTED.**

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

This matter is being referred to Technology Center AU 2464 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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1103 Twin Creeks
Allen, TX 75013

Mail Date: 04/20/2010

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| **Applicant** | : Chiang Yeh | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7596220 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,357 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 12/30/2004 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1066** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4-14-09 Paper No.: _____

TO SPE OF : ART UNIT 2894

SUBJECT : Request for Certificate of Correction for Appl. No.: 11028374 Patent No.: 7485562

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**

Valerie Jackson
**Certificates of Correction Branch**
**703-308-9390 ext.** 114

**Thank You For Your Assistance**

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

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

**Comments:** Certificate of Correction filed 4/6/09 has been approved by the Primary Examiner of record.

/Kimberly Nguyen/ 2894
**SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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SHOOK, HARDY & BACON L.L.P.
(Cerner Corporation)
Intellectual Property Department
2555 GRAND BOULEVARD
KANSAS CITY, MO 64108-2613

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mark A. Hoffman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7634359 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,379 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1193** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Andrew B. Leary | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7589272 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,383 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1231** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HAYNES BEFFEL & WOLFELD LLP
P O BOX 366
HALF MOON BAY, CA 94019

Mail Date: 05/18/2010

**Applicant** : Andrew B. Leary
**Patent Number** : 7589272
**Issue Date** : 09/15/2009
**Application No** : 11/028,383
**Filed** : 01/03/2005

: 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 **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MAIL

APR 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Brian Rolffe, ESQ.
11 Sunrise Plaza, Suite 303
Valley Stream, NY 11580-6170

In re Application of
David S. Breed, et al.
Application No. 11/028,386
Filed: January 3, 2005
For: COMMUNICATION METHOD AND ARRANGEMENT

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition under 37 C.F.R. §1.102 to make special filed April 11, 2005 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 David S. Breed passport, showing 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

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,515,772 B2
Serial No. : 11/028,394
Inventor(s) : Li et al.
Issued : April 7, 2009
Title : **DOCUMENT REGISTRATION AND SKEW DETECTION SYSTEM**
Docket No. : **20031105-US-CIP**

Re: Request for Reconsideration

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.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-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, which requires petition 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 B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.*
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

**Ernest C. White, *LIE***
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

PATENT DOCUMENTATION CENTER
XEROX CORPORATION
100 CLINTON AVE SOUTH
MAILSTOP: XRX2-020
ROCHESTER NY 14644

ecw

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**ROCHESTER NY 14644**

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JUL 31 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,515,772 | : | |
| Issue Date: April 07, 2009 | : | |
| Application No. 11/028,394 | : | DECISION ON PETITION |
| Filed: January 03, 2005 | : | |
| Attorney Docket No. **20031105-US-CIP** | : | |

This is a decision on the petition filed June 12, 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 Tredelle Jackson at (571) 272-2783. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Since the $130 petition was submitted as an over payment on June 12, 2009 this fee is unnecessary and will be credited to petitioner's deposit account 24-0025.

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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
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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GREENBERG TRAURIG, LLP
1200 SEVENTEENTH STREET, SUITE 2400
DENVER CO 80202

**COPY MAILED**

APR 12 2007

**OFFICE OF PETITIONS**

In re Application of
Ramzy Moumneh et al.
Application No. 11/028,402
Filed: January 3, 2005
Attorney Docket Number: 75952.104

ON PETITION

This is a decision on the petition filed February 7, 2007 under 37 CFR 1.181 to withdraw the holding of abandonment.

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

A non-Final Office Action mailed January 13, 2006 required a response not later than April 13, 2006. In response to the amendment filed April 10, 2006, a Notice of Non-Compliant Amendment was mailed June 22, 2006 and set a one month period for response. No response having been timely filed, the application became abandoned July 25, 2006. Accordingly a Notice of Abandonment was mailed January 10, 2007.

Petitioner asserts that a response in the form of a supplemental amendment was filed August 16, 2006 with a one onth extension of time. Provided as proof is a copy of the response and extension of time request, and an electronic filing acknowledgment receipt dated August 16, 2006.

A search of the application file and the USPTO records reveals that the extension of time fees were properly and timely charged to petitioner's deposit account on August 16, 2006, but the search does not reveal receipt of the response. In view of the evidence provided, the petition is compliant with 37 CFR 1.8(b) and accordingly, the abandonment is hereby withdrawn. No petition fee is necessary and none has been charged.

This matter will be referred to Technology Center 3671 for appropriate action on the response originally filed on August 16, 2006 and resubmitted with the instant petition on February 7, 2007.

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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JUN 11 2007

**OFFICE OF PETITIONS**

Chang-Feng Wan
16210 Shadybank Dr.
Dallas, TX 75248

| | | |
|---|---|---|
| In re Application of | : | |
| Chang Fen-Wan | : | |
| Application No.: 11/028,409 | : | ON PETITION |
| Filed: January 3, 2005 | : | |
| Attorney Docket No: JSF02-0012 | : | |

This is in response to the petition under 37 CFR 1.137(b) filed May 10, 2007.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed December 26, 2006, which set a statutory period for reply of three months form its mailing date. The application also became abandoned for failure to respond to the Notice of Drawing Inconsistency with Specification, mailed February 20, 2007, which set a one month period for reply. A response to either Notice was not received within the allowed period, and the application became abandoned on March 27, 2007. A Notice of Abandonment was mailed on April 26, 2007.

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

(1) the required reply, unless previously filed. In a non-provisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee, or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

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

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

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

The instant petition does not satisfy the requirements of item (1) above.

The "Notice of Drawing Inconsistency with Specification" required petitioner to correct an apparent inconsistency between the drawings and the specification. A response to this notice was not found in the application file. The renewed petition must be accompanied by a response to the "Notice of Drawing Inconsistency with Specification."

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

By mail:

Mail Stop Petitions
Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: "Notice of Drawing Inconsistency with Specification"--COPY

11/028409 (1035)

# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/028,409 | 01/03/2005 | Chang-Fegn Wan | JSF02-0012 | 7902 |

7590 02/20/2007

Chang-Feng Wan
16210 Shadybank Dr.
Dallas, TX 75248

| EXAMINER |
|---|
| MULLINS, BURTON S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2834 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/20/2007 | PAPER |

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

11/028409 (1631)

**UNITED STATES PATENT AND TRADEMARK OFFICE**

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE

## NOTICE OF DRAWING INCONSISTENCY WITH SPECIFICATION

The drawings filed 01 – 03 – 2005 have been received. However, an inconsistency exists between the drawings and the Brief Description of the Drawings in the specification.

Figure 12B is listed in the Brief Description of the Drawings in the specification but not contained in the Drawings.

Figure 12 is contained in the Drawings but not listed in the Brief Description of the Drawings in the specification.

Applicant is required to correct the above-noted inconsistency within a time period of **ONE MONTH or THIRTY (30) DAYS, whichever is longer,** from the mailing date of this Notice, or within the time remaining in the time period set forth in the Notice of Allowability (Form PTOL-37) to file corrected drawings, whichever is longer. **NO EXTENSION OF THIS TIME PERIOD MAY BE GRANTED UNDER EITHER 37 CFR 1.136 (a) OR (b)**

Failure to correct the above noted inconsistency will result in **abandonment** of the application.

The file will be held in the Publishing Division to await the correction of the inconsistency.

**Return Corrected Drawings/Specification to:**
Mail Stop Issue Fee
Commissioner for Patents
P.O. Box 1450

Alexandria, VA 22313-1450

Office of Patent Publication/Publishing Division
Customer Service: 703-308-6789
1-888-786-0101

FORM PTO-1631 (REV. 10-03)

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 20 2007

OFFICE OF PETITIONS

Chang-Feng Wan
16210 Shadybank Dr.
Dallas, TX 75248

In re Application of :
Chang Fegn-Wan :
Application No. 11/028,409 :
Filed: January 3, 2005 :
Attorney Docket No. JSF02-0012 :

ON PETITION

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

The renewed petition is **granted**.

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed December 26, 2006, which set a statutory period for reply of three months form its mailing date. The application also became abandoned for failure to respond to the Notice of Drawing Inconsistency with Specification, mailed February 20, 2007, which set a one month period for reply. A response to either Notice was not received within the allowed period, and the application became abandoned on March 27, 2007. A Notice of Abandonment was mailed on April 26, 2007.
The issue fee of $1400.00 and publication fee of $300.00 were received and made of record. A petition under 37 CFR 1.137(b) was first filed on May 10, 2007, and dismissed by a decision mailed June 11, 2007.

The response to the Notice of Drawing Inconsistency with Specification, filed July 8, 2007, is noted.

It is noted that petitioner request correction of the inventor's name from Chang Fegn-Wan to Chang Feng-Wan. This request must be made by petition under 37 CFR 1.182, with a request for a certificate of correction. The issue fee in this application was paid on May 10, 2007. Effective May 29, 2000, the Office changed the practice by clarifying that an amendment under 37 CFR 1.312 (after allowance) must be filed prior to or with payment of the issue fee, and eliminated 37 CFR 1.312(b). Since a change to the inventor's name is an amendment to the application, and amendments are not permitted after payment of the issue fee, a petition under 37 CFR 1.182 to change the inventor's name cannot be granted.

Nevertheless, the petition may still be granted if a renewed petition under 37 CFR 1.182 and fee of $400.00, along with a request for a certificate of correction and fee of $100, are submitted.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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FROM DIRECTORS OFFICE

JUL 20 2005

TECHNOLOGY CENTER 3600

Michael G. Petit
P.O. Box 91929
Santa Barbara, CA
93190-1929

In re Application of:
Russell Frieder, et al.
Serial No. 11/028,417
Filed: December 30, 2004
For: PATIENT SUPPORT SYSTEM

: **DECISION ON PETITION**
: **TO MAKE SPECIAL**
: **(PUBLIC SERVICE)**
:

This is a decision on the petition filed May 13, 2005 under 37 CFR 1.102 (b) to make the above-identified application special set forth in MPEP 708.02: Inventions deemed of peculiar importance to some branch of the public service.

The reason that applicant provides for requesting special status is that the invention may materially improve public safety and is of importance to national security.

Currently, the grounds upon which the applicant endeavors to make his application special, may materially improve public safety and is of importance to national security, is not recognized as a valid reason for granting an application special status. The only acceptable reasons for requesting an application be awarded special status can be found in MPEP 708.02.

The requirements for granting special status under 37 CFR 1.102(b) are: that the head of some department of the Government requests immediate action for that reason.

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, Alexandria, VA. 22313-1450. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

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

For the above stated reasons, the petition is **DISMISSED**.

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

KJD/mng: 7/12/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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FROM DIRECTORS OFFICE

JUN 27 2005

TECHNOLOGY CENTER 3600

J. Gordon Thomson
1353 Mountainside Crescent
Ottawa, ON
K1E 3G5
CANADA

| | | |
|---|---|---|
| In re application of<br>Wilfred G. Morris<br>Application No. 11/028,448<br>Filed: January 4, 2005<br>For: ROCK BOLT ANCHOR HAVING CONCURRENT CHEMICAL AND MECHANICAL ANCHORING MEANS AND METHOD FOR USING THE SAME | :<br>:<br>:<br>: | **DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)** |

This is a decision on the petition submitted on March 7, 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 III: Applicant's Health.

The petition is **DISMISSED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the the state of health of applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. Such a showing may be provided by evidence such as a doctor's certificate or other medical certificate.

The evidence submitted with the petition is a statement signed by the attorney of record on behalf of the applicant. Such evidence is not sufficient since applicant's attorney is not qualified to evaluate the state of applicant's health.

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 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.

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

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

RAR/dcg: 6/1/05

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United States Patent and Trademark Office
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SEP 09 2005

TECHNOLOGY CENTER 3600

J. Gordon Thomson
1353 Mountainside Crescent
Ottawa, ON
K1E 3G5
CANADA

In re application of
Wilfred G. Morris
Application No. 11/028,448
Filed: January 4, 2005
For: ROCK BOLT ANCHOR HAVING CONCURRENT CHEMICAL AND MECHANICAL ANCHORING MEANS AND METHOD FOR USING THE SAME

**DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S HEALTH)**

This is in response to the renewed petition submitted on August 29, 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 III: Applicant's Health.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the state of health of applicant is such that he or she might not be available to assist in the prosecution of the application if it were to run its normal course. Such a showing may be provided by evidence such as a doctor's certificate or other medical certificate.

The evidence submitted with the petition is a doctor's certificate indicating the state of health of the applicant.

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/dcg: 9/1/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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J. GORDON THOMSON
P.O. BOX 8865
VICTORIA BC V8V 3Z1 CA CANADA

**COPY MAILED**

SEP 1 1 2006

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of<br>Morris<br>Application No. 11/028,448<br>Filed: April 1, 2005<br>Attorney Docket No. Morris | DECISION ON PETITION<br>TO WITHDRAW<br>FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 17, 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 Gordon Thompson on behalf of all attorneys of record who are associated with customer No. 42812..

All attorneys/agents associated with the Customer Number 42812 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: W. G. Morris
390 St Louis Avenue
Pointe Claire, Quebec H9R 2A2
CANADA

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/028,449 | 12/30/2004 | 1617 | 1000 | 407T-899211US | 13 | 2 | 1 |

**CONFIRMATION NO. 8815**

**CORRECTED FILING RECEIPT**

*OC000000018220984*

22798
QUINE INTELLECTUAL PROPERTY LAW GROUP, P.C.
P O BOX 458
ALAMEDA, CA 94501

Date Mailed: 03/07/2006

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)**

Alan M. Fogelman, Beverly Hills, CA;
Mohamad Navab, Los Angeles, CA;

**Assignment For Published Patent Application**

The Regents of the University of California

**Power of Attorney:** The patent practitioners associated with Customer Number **22798**.

**Domestic Priority data as claimed by applicant**

This application is a CON of 09/994,227 11/26/2001 ABN
which is a CIP of 09/539,569 03/31/2000 ABN

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/15/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/028,449**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Control of gene induced by oxidated lipids in human artery wall cells

**Preliminary Class**

514

## 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).

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

**GRANTED**

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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Paper No.

HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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APR 12 2010

OFFICE OF PETITIONS

In re Application of
Anderson et al.
Application No. 11/028,465
Filed: January 3, 2005
Attorney Docket No.: 2011-2
Title: SYSTEMS, METHODS, SOFTWARE AND INTERFACES FOR INTEGRATION OF CASE LAW WITH LEGAL BRIEFS, LITIGATION DOCUMENTS, AND/OR OTHER LITIGATION-SUPPORT DOCUMENTS

DECISION ON PETITION PURSUANT TO 37 C.F.R. § 1.181(A)

This is a decision on the petition filed August 31, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

Receipt of the concurrently submitted response to the final Office action is acknowledged, along with the subsequently submitted Notice of Appeal, the Appeal Brief, and the associated fees.

It is noted that a Revocation of Power of Attorney with a New Power of Attorney was filed subsequent to the filing of this petition.

## BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed September 8, 2008, which set a shortened statutory period for reply of three months. No extensions of time under the provisions of 37 C.F.R §1.136(a) were obtained, and no response was received. Accordingly, the

above-identified application became abandoned on December 9, 2008. A notice of abandonment was mailed on April 30, 2009.

RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. § 1.134 sets forth, *in toto*:

> 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 sets forth, *in toto*:

> (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.

Section 711.03(c)(I)(A) of the MPEP sets forth, *in toto*:

> 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** (emphasis added). 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).

## ANALYSIS

With this petition, Petitioner has stated that the Office action was not received at the correspondence address of record,[1] and has provided a copy of the master docket of Schwegman, Lundberg & Woessner, P.A. for the relevant time period.[2]

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1 Petition, page 1.
2 "Petition to Revive Docket."

Moreover, Petitioner has asserted that both the "physical file and docket records" were searched and these searches indicate that the final Office action was not received,[3] however it is not clear who performed these searches. The Office will construe this statement to mean that Petitioner personally searched both the physical file and the docket records, Petitioner must notify the Office if this is not a correct interpretation of the statement contained in this petition. If the renewed petition is not filed by Mr. Drake, the new Petitioner must indicate on renewed petition that he confirmed with Mr. Drake that this interpretation is correct.

Petitioner's assertion of non-receipt has not been adequately supported, for Petitioner has neither described the docketing system that Petitioner has in place or established that it is sufficiently reliable.

The concurrently submitted alternate petition pursuant to 37 C.F.R. § 1.137(b) will be held in abeyance so as to afford Petitioner the opportunity to file a renewed petition under Rule 1.181(a). If Petitioner would prefer to seek revival under the unintentional standard, a response to this decision should be submitted with words to this effect.

## CONCLUSION

The time period for filing a 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 "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.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail,[4] hand-delivery,[5] or facsimile.[6] Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[7]

Statements based on hearsay will not normally be accepted.

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3 Petition, page 2.
4 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
5 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
6 (571) 273-8300- please note this is a central facsimile number.
7 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures should be directed to the Technology Center.

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

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

SPE: D. Bagnell

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/9/07

TO SPE OF : ART UNIT 3672

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/028,468 Patent No.: 7178595

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

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

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


**Lamonte M. Newsome**
**Certificates of Correction Branch**
**703-308-9390 ext. 112**


**Thank You For Your Assistance**

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

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

**Comments:** _____

DAVID BAGNELL
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

SPE

3672
Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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**VIERRA MAGEN MARCUS HARMON & DENIRO**
**685 MARKET STREET, SUITE 540**
**SAN FRANCISCO, CA 94105**

**COPY MAILED**

MAR 29 2006

**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Herman Spencer Jr. | : |
| Application No. 11/028,473 | : DECISION ON PETITION |
| Filed: January 3, 2005 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. TRIRG-01005US0 | : |

This is a decision on the petition filed November 23, 2005, which is being treated under 37 CFR 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional Application No. 60/534,093, filed December 31, 2003, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the above-noted, prior-filed provisional 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 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 above-noted, 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 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. §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 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 provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Wan Laymon at (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 AU 2161 for appropriate action on the amendment submitted November 23, 2005, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the above-noted, prior-filed provisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

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FEB 20 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent | : | |
| Tang et al. | : | |
| Application Number: 11/028,477 | : | DECISION ON PETITION |
| Patent: 7,125,905 | : | |
| Attorney Dkt. No.: 038602-1086 | : | |
| Filing Date: January 4, 2005 | : | |
| Issue Date: October 24, 2006 | : | |

This is a decision on the petition filed November 6, 2006 under 37 CFR 3.81(b) correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **Granted**.

This application is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

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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FISH & RICHARDSON P.C.
P.O. BOX 1022
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JUN 18 2010

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 11/028,478 :
Filed: January 4, 2005 :
Attorney Docket No. 12732-0283001

ON PETITION

This is a decision on the petition, filed June 17, 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 May 24, 2010 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 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

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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

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**HRL LABORATORIES, LLC**
**3011 MALIBU CANYON RD.**
**MALIBU CA 90265**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Richard P. Berg, et al. | : | |
| Application No. 11/028,495 | : | DECISION ON PETITION |
| Filed: December 30, 2004 | : | |
| Attorney Docket No. B-3500DIV3CIP 622100-2 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b) filed August 21, 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 11, 2007 as required by the Notice of Allowance and Fee(s) Due mailed March 9, 2007. Accordingly, the date of abandonment of this application is June 12, 2007. The Notice of Abandonment was mailed July 3, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500; 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.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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**YORAM TSIVION**
**P.O. BOX 1307**
**PARDES HANNA 37111 IL ISRAEL**

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JUL 15 2010
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sarit Larisch et al. | : | |
| Application No. 11/028,509 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. | : | |
| 586.03_05_01_NP_US_DMY | | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 4, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to timely file a proper reply within the meaning of 37 CFR 1.113 to the final Office action of October 15, 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 were obtained. Accordingly, the date of abandonment of this application is January 16, 2008. A Notice of Abandonment was mailed on May 6, 2008.

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

1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (1).

As to item (1), no reply has been received to the Final Office action mailed on October 15, 2007.

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

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

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

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

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

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

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Ronya Rubinstein
Rambam Health Care Campus
6 Ha'Aliya Street
P.O. Box 9602
Haifa, Israel 31096

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1940 DUKE STREET
ALEXANDRIA VA 22314

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JAN 26 2009

OFFICE OF PETITIONS

In re Application of :
Patrick M. Alliel, et al. :
Application No.: 11/028,539 :
Filed: January 5, 2005 :
Attorney Docket No.: 264201US0DIV :

ON PETITION

This is a decision on the petition, filed January 23, 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 December 16, 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 1648 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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**MUNCY, GEISSLER, OLDS & LOWE, PLLC**
**P.O. BOX 1364**
**FAIRFAX, VA 22038-1364**

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MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Ling-Chen Chang et al
Application No. 11/028,544
Filed: January 5, 2005
Attorney Docket No. BHT-3167-243

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance mailed March 13, 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 the Office of Data Management to be processed into a patent.

Karen Creasy

Karen Creasy
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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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/028,544 | 01/05/2005 | Ling-Chen Chang | BHT-3167-243 |

**CONFIRMATION NO. 3945**

**POA ACCEPTANCE LETTER**

60601
Muncy, Geissler, Olds & Lowe, PLLC
P.O. BOX 1364
FAIRFAX, VA 22038-1364

*OC000000034981037*

Date Mailed: 03/12/2009

## NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/19/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/kocreasy/

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

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PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

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| | | |
|---|---|---|
| In re Patent of Chang et al. | : | |
| Patent No. 7,529,985 | : | DECISION ON APPLICATION |
| Issue Date: May 5, 2009 | : | FOR RECONSIDERATION OF |
| Application No. 11/028,545 | : | PATENT TERM ADJUSTMENT |
| Filing Date: January 26, 2005 | : | |
| Attorney Docket No. 320528616US | : | |

This is in response to the "Application for Patent Term Adjustment Reconsideration Under 37 C.F.R. § 1.705(D)" filed July 6, 2009. Patentees request the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from five hundred eighty-one (581) days to seven hundred sixty-six (766) days.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application matured into United States Patent No. 7,529,985, with a patent term adjustment of 581 days on May 5, 2009. This request for reconsideration was timely filed within two months of the issue date of the patent.[1]

Patentees assert the patent term adjustment should have been increased by 185 days as a result of 185 days of Office delay under 35 U.S.C. § 154(b)(1)(B) ("B Delay").

The first issue is this case is the amount of B Delay.

Per 35 U.S.C. § 154(b)(1)(B)(i), B Delay does not include "any time consumed by continued examination of the application requested by the applicant under section 132(b)."[2] In other words, B Delay in this case does not include the time period from the date a request for continued examination was filed until the date the patent issued.

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[1] July 5, 2009, was a Sunday. Therefore, even though the request was filed on July 6, 2009, the request is timely.

[2] *See Changes to Implement Patent Term Adjustment Under Twenty-Year Patent Term; Final Rule*, 65 Fed. Reg. 56,366, 53,370-53,371 (September 18, 2000) ("Once a request for continued examination under 35 U.S.C. 132(b) and § 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and § 1.114.").

The application was filed January 5, 2005. A Request for Continued Examination ("RCE") was filed July 8, 2008.[3] The number of days beginning on the day after the date three years after the application was filed, January 6, 2008, until the *day before the date* a RCE was filed, July 7, 2008, is 184 days. Therefore, the amount of B delay in the instant case is 184 days.[4]

The second issue in this case is the extent to which the patent term adjustment listed on the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) should have been increased as a result of B Delay.

35 U.S.C. § 154(b)(2)(A) limits Office delay to the sum of Office delay under 35 U.S.C. § 154(b)(1)(A) ("A Delay") and B Delay to the extent such periods of delay are not overlapping. Specifically, 35 U.S.C. § 154(b)(2)(A) states,

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

Patentees do not dispute that the total period of Office delay is the sum of the period of A Delay and the period of B Delay to the extent the periods of delay do not overlap. However, patentees assert the period of overlap is 0 days. The Office does not agree with patentees' assertion. The Office contends the period of overlap is 184 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[5]

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[3] A second RCE was also filed November 24, 2008. However, the filing of the second RCE does not change the analysis.

[4] The instant case does not contain any time periods falling under 35 U.S.C. §§ 154(b)(1)(B)(ii)-(iii).

[5] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two

In this case, the relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, January 5, 2005, to the date of issuance of the patent, May 5, 2009, excluding any time period consumed by continued examination of the application under 35 U.S.C. § 132(b). In other words, the relevant time period for determining if periods of delay "overlap" is January 5, 2005, to July 7, 2008.

The period of delay of 184 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 583 days accrued under 37 C.F.R. § 1.702(a)(1) prior to the filing of the RCE. In other words, the 184 days of B delay overlap with 184 of the 583 days of A Delay. Therefore, the Office acted properly when the Office did not enter any additional days to the patent term adjustment for B Delay when issuing the patent.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

The fourth page of the request asserts the Office reduced the patent term adjustment by 0 days for applicant delay and states patentees agree with the 0-day determination. However, the remainder of the request correctly recognizes, *and does not dispute*, the existence of a 2-day reduction for Applicant Delay. For example, page 2 states, "The PTO properly accounted for the reduction in patent term adjustment under delay under 35 U.S.C. § 154(b)(2)(C) [and] [t]he reduction is 2 days." Therefore, the Office has not interpreted the instant request as a request for review of the 2-day reduction.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

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**40 KING STREET WEST**
**BOX 401**
**TORONTO ON M5H 3Y2 CA CANADA**

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Shafrir, Uri | : | |
| Application No. 11/028,679 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 12937-3 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 21, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

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

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

The instant petition lacks item(s) (1). Petitioner submitted a Request for Continued Examination (RCE) electronically, along with the instant petition. However, when accessed,

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

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

both the petition and what is listed as the RCE are in the fact the same copy of the Petition to Revive under 37 CFR 1.137(b). It is requested that the petitioner submit the actual RCE.

The USPTO financial records reflect payment of both the petition fee and the RCE fee.

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 $865.00 extension of time fee submitted with the petition on January 21, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as previously authorized.

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

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

By hand: Customer Window located at:

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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**BERESKIN AND PARR LLP/S.E.N.C.R.L., s.r.l.**
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|---|---|---|
| In re Application of | : | |
| Shafrir, Uri | : | |
| Application No. 11/028,679 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 12937-3 | : | |

This is a decision on the renewed petition under 37 C.F.R. § 1.137(b), filed July 31, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition now satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied the Request for Continued Examination (RCE).

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

This matter is being referred to Technology Center AU 2164 for further processing of the Request for Continued Examination under 37 CFR 1.114 filed with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Stefan Klemens Mueller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647600 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,688 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1347** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ARTHROCARE CORPORATION
680 VAQUEROS AVENUE
SUNNYVALE, CA 94085-3523

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OFFICE OF PETITIONS

In re Application of Ciarrocca et al. :
Application No. 11/028,709 : Decision on Petition
Filing Date: January 3, 2005 :
Attorney Docket No. G-4-1 :

This is a decision on the petition under 37 CFR 1.181, filed July 13, 2006, to withdraw the holding of abandonment.

The petition is **granted.**

Facts:

A Notice of Non-Compliant Amendment was mailed October 5, 2005.

Petitioner has filed a showing in compliance with 37 CFR 1.8(b) establishing a reply was filed by facsimile transmission on October 12, 2005.

The reply incorrectly listed the application number as 10/028,709.

The reply was not matched with the instant application.

A Notice of Abandonment was mailed July 7, 2006.

Discussion:

At the discretion of the Office, a paper listing an incorrect application number may be considered timely and proper.

The reply filed October 12, 2005, listed an incorrect application number but listed a correct attorney docket number.

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

Future decisions:

Petitioner is put on notice that, in the future, similar or even identical facts, may not result in the granting of a petition to withdraw the holding of abandonment. The reply failed to provide a filing date, the title of the invention, or an inventor name. All future replies, in this application

or any other application, should provide more application identifiers than simply an application number and attorney docket number.

Technology Center Art Unit 3739 will be informed of the instant decision. Thereafter, the examiner will consider the merits of the reply to the Notice of Non-Compliant Amendment 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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|---|---|---|
| In re Application of | : | |
| Peter Brinkmann | : | |
| Application No.: 11/028724 | : | ON PETITION |
| Filing or 371(c) Date: 01/04/2005 | : | |
| Attorney Docket Number: | : | |
| TNL-BRU-01 | : | |

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 November 14, 2008.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed August 20, 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 November 21, 2007. A Notice of Abandonment was mailed May 30, 2008.

Applicant files the present petition and 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 1794 for processing of the response to the Office action filed with the petition in the normal course of business.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 12 2007

OFFICE OF PETITIONS

Applicant: Usher, et al.
Appl. No.: 11/028,726
Filing Date: January 3, 2005
Title: METHOD AND SYSTEM FOR AUTOMATICALLY CAPTURING AN IMAGE OF A RETINA
Attorney Docket No.: 16277US01
Pub. No.: US 2006/0147095 A1
Pub. Date: July 6, 2006

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on September 5, 2006, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains material errors in paragraph [0044], [0051], [0054] and [0057] where "a" was used instead of the symbol "α".

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 wherein the symbol "α" is misprinted as "a" in paragraph [0044], [0051], [0054] and [0057] may be an Office error, but it 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 is due to the quality of the text in the application. The quality of the text is poor, as it is small, which makes it difficult to electronically reproduce by digital imaging and optical character recognition. See 37 CFR 1.52. The typographical error also does not affect the

[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).

understanding of the application, as "a" is often substituted for "α". The application is clearly understandable to one of ordinary skill in the art reading the application and claims. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

Applicant is advised that he may want to file application papers that are clearer, as the error is due to the quality of the text. The text in the application is small 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.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Mark G. Kachigian
Head, Johnson & Kachigian
228 West 17th Place
Tulsa OK 74119

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AUG 23 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Orr, et al. | : | |
| Application No. 11/028,731 | : | ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. Hel565/02597A | : | |
| For: INTEGRATED MAST AND TOP DRIVE FOR DRILLING RIG | | |

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

This application became abandoned for failure to timely respond to the final Office action mailed September 22, 2005, which set an extendable three month period for reply. Applicants submitted a three month extension of time and an amendment after final on March 27, 2006 (certificate of mailing date March 22, 2006). The amendment after final failed to place this application in *prima facie* condition for allowance, as was explained in the April 11, 2006 Advisory action. Accordingly, this application became abandoned on March 23, 2006. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Applicants have submitted a RCE and required fee and a request to use the previously filed amendment as the submission in reply to the September 22, 2005 final Office action, an acceptable statement of the unintentional nature of the delay in responding to the September 22, 2005 final Office action, and the petition fee.

The petition is **GRANTED**.

After the mailing of this decision the application will be forwarded to Technology Center AU 3721 for consideration of the RCE filed on April 24, 2006.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CARSTENS & CAHOON, LLP
PO BOX 802334
DALLAS, TX 75380

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FEB 07 2007

**OFFICE OF PETITIONS**

In re Application of :
Anthony Robert Knoerzer et al :
Application No. 11/028,751 : ON PETITION
Filed: January 4, 2005 :
Attorney Docket No. CFLAY.00267 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 29, 2006.

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

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

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

Attachment: Issue Fee Transmittal Form (PTOL-85b)

# 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)

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

**Certificate of Mailing or Transmission**

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

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| | | | | |

TITLE OF INVENTION:

| APPLN. TYPE | SMALL ENTITY | ISSUE FEE DUE | PUBLICATION FEE DUE | PREV. PAID ISSUE FEE | TOTAL FEE(S) DUE | DATE DUE |
|---|---|---|---|---|---|---|
| | | | | | | |

| EXAMINER | ART UNIT | CLASS-SUBCLASS |
|---|---|---|
| | | |

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. **Use of a Customer Number is required.**

2. For printing on the patent front page, list

(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,

(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.

1 _____

2 _____

3 _____

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

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

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY and STATE OR COUNTRY)

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

4a. The following fee(s) are submitted:

☐ Issue Fee

☐ Publication Fee (No small entity discount permitted)

☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): **(Please first reapply any previously paid issue fee shown above)**

☐ A check is enclosed.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. **Change in Entity Status** (from status indicated above)

☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27.

☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

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

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

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

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

02-12-07

DAC

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OFFICE OF PETITIONS

In re Application of
Anthony Robert Knoerzer et al
Application No. 11/028,751
Filed: January 4, 2005
Attorney Docket No. CFLAY.00267

JGD
1 mo. 03-07-2007

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 19, 2006, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to submit the Issue fee and Publication fee in a timely manner in reply to the Notice of Allowance mailed December 28, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on March 29, 2006.

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

There is no indication that petitioner has submitted an Issue Fee Transmittal Form (PTOL-85b). Accordingly, if petitioner desires to have the information normally found thereon printed on the patent, the attached blank Issue Fee Transmittal Form should be completed and returned to the Publishing Division, Box Issue Fee, within ONE MONTH from the mail date of this decision.

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

Attachment: Issue Fee Transmittal Form (PTOL-85b)

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

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**OFFICE OF PETITIONS**

In re Application of
Brucker, Malaret, Hall, Byrd, Hubbs, Furnish, Barber
Gunasekara, Morris, Futral, Chernomordik, Mers Kelly,
Reuss, Furnish, Wilson, Boudai, Muskivitch, Pease, Rahdert,
Rowe, Ruhf, Walsh, Banks, Redmonds, and Vidal
Application No. 11/028,754
Filed: January 3, 2004
Attorney Docket No. S63.2-10306US02
For: BIFURCATED STENT AND DELIVERY SYSTEM

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

This is a decision on the petition under 37 CFR 1.47(a) January 3, 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 January 3, 2005, and was accompanied by the instant petition along with declarations executed by all joint inventors, except inventor Malaret.

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) above.

As to item (1) sufficient proof was not provided that the entire application was sent to the non-signing inventor, not just the declaration and power of attorney. Guidance as to what is required to be sent to the non-signing before a refusal to join the prosecution of the application, constructive or express, can be alleged is found in the *Manual of Patent Examining Procedure*, Section 409.03(d) which reads, in pertinent part:

> [a] refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not, itself, suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney.

Although it is apparent that the declaration and assignment were sent to the non-signing inventor, it is not clear from the instant petition whether petitioner sent the non-signing inventor the entire application for his review and signature. It is, therefore, concluded that item (1) above has not been satisfied. Any renewed petition filed must demonstrate that a copy of the entire application, including the specification, claims, and drawings, were sent to the non-signing inventor.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

Telephone inquiries should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

In re Application of
Brucker, Malaret, Hall, Byrd, Hubbs, Furnish, Barber, Gunasekara, Morris, Futral, Chernomordik, Mers, Kelly, Reuss, Furnish, Wilson, Boudai, Muskivitch, Pease, Rahdert, Rowe, Ruhf, Walsh, Bansk, Redmonds, and Vidal
Application No.: 11/028,754
Filed: January 3, 2004
Attorney Docket No: S63.2-10306US02
For: **BIFURCATED STENT AND DELIVERY SYSTEM**

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 28 , 2005.

The petition is **GRANTED**.

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

The above-identified application was file don January 3, 2005, and was accompanied by a petition under 37 CFR 1.47(a). The petition was dismissed by a decision mailed March 9, 2005. The instant renewed petition was then filed on March 28, 2005.

Petitioner has shown that inventor Malaret has refused join the application. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

Deposit account 22-0350 will be charged $200.00 for the instant petition fee. See 37 CFR 1.17(g).

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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C/O INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Been-Yih Jin et al | : | |
| Application No. 11/028,755 | : | ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. P12768D | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed May 30, 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 June 26, 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 September 27, 2007.

Office record show two different power of attorneys were filed May 27, 2008. A courtesy copy is being mailed to Customer No. 45209.

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

This matter is being referred to Technology Center AU 2812 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Blakely, Sokoloff, Taylor & Zafman LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085

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David T. Burse
VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga CA 95070

SEP 01 2006

| | | |
|---|---|---|
| In re Application of: SEPETKA | : | |
| Appl. No.: 11/028,770 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | Under 37 CFR 1.59 |
| For: IMPLANG DELIVERY ASSEMBLY WITH EXPANDABLE COUPLING/DECOUPLING MECHANISM | : | |

This is a response to the petition under 37 CFR 1.59(b), filed on January 5, 2006 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed December 19, 2005 be expunged from the record. Petitioner states that 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 not presently been paid. However, authorization to charge deposit account no. 50-1105 was given by Mr. David Burse on August 28, 2006.

The decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The document in question will not be available to the public during prosecution.

The application is being forwarded to the Head Supervisory Applications Examiner to charge the $200.00 petition fee to deposit account No.50-1105.

Decision held in ABEYANCE.

Frederick R. Schmidt, Director
Technology center 3700

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Alexandria, VA 22313-1450
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VISTA IP LAW GROUP LLP
12930 Saratoga Avenue, Suite D-2
Saratoga, CA 95070

*In re* Application of:
Ivan Sepetka
Serial No.: 11/028770
Filed: January 3, 2005
Docket: 20104.03
Title: IMPLANT DELIVERY ASSEMBLY WITH EXPANDABLE COUPLING/DECOUPLING MECHANISM

AUG 20 2007

DECISION ON PETITION
UNDER 37 C.F.R. 1.59

This is a response to the petition under 37 CFR 1.59(b), filed May 2, 2007 to expunge information from the above identified application.

The decision on the petition will be held in abeyance until allowance of the application or mailing of an *Ex parte Quayle* action or a Notice of Abandonment, at which time the petition will be decided.

Applicant previously filed petition on January 5, 2006 requesting that Document Numbers 2, 12, 16, and 40 as listed on the PTO-1449 accompanying the Fourth Information Disclosure Statement be expunged from the record. On September 1, 2006, the decision was held in abeyance until prosecution on the merits was closed and the examiner could determine whether the documents were considered "material."

Applicant requests in the instant petition that Document Numbers 2-25 listed on the PTO form PTO/SB/08A accompanying the Fifth Information Disclosure Statement, filed May 2, 2007 be expunged. 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. Office records indicate that the petition fee set forth in 37 CFR 1.17(g) has been paid.

Under MPEP 724.05(I), a petition to expunge information under MPEP 724.02 must contain:

(A) a clear identification of the information to be expunged without disclosure of the details thereof;

(B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
(C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
(D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information; and
(E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b).

Although petitioner satisfies each of these requirements, prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged in "material" with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution of the merits, the examiner will determine whether or not the identified document is considered to be "material." If the information is not considered by the examiner to be material, the information will be removed from the official file. The information has been placed in a non-public artifact folder pending final determination of materiality.

Questions concerning this decision should be directed to Special Programs Examiner J. Harrison at 571-272-4449.

DECISION HELD IN ABEYANCE

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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

David T. Burse
VISTA IP LAW GROUP LLP
12930 Saratoga Avenue
Suite D-2
Saratoga CA 95070

| | |
|---|---|
| In re Application of: SEPETKA | |
| Appl. No.: 11/028,770 | DECISION ON PETITION |
| Filed: January 3, 2005 | Under 37 CFR 1.59 |
| For: IMPLANG DELIVERY ASSEMBLY WITH EXPANDABLE COUPLING/DECOUPLING MECHANISM | |

This is a response to the petition under 37 CFR 1.59(b), filed on April 14, 2008 by which petitioners request to expunge information from the above identified application.

The decision on the petition is will be held in abeyance until prosecution on the merits is closed, at which time the petition will be decided.

Petitioner requests that the information submitted in the Information Disclosure Statement, filed December 19, 2005 be expunged from the record. Petitioner states that 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 decision on the petition is held in abeyance because prosecution on the merits is not closed. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material", with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the decision on the petition to expunge must be held in abeyance at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material". If the information is not considered by the examiner to be material, the information will be returned to the applicant.

The documents in question will not be available to the public during prosecution.

Decision held in ABEYANCE.

Frederick R. Schmidt, Director
Technology center 3700

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

**DATE** : 4-13-07

**TO SPE OF** : ART UNIT 1711

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7179879 B2 (11/028774)

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.

Should claims be added? [illegible]

**Thank You For Your Assistance**

Eva James
**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:**

A letter dated 2/23/06, and which was intended to be entered into a related application (11/028,741), mistakenly had the Serial # of the above issued US Patent (11/028,774), and then was entered and therefore incorrectly replacing the entire set of claims. The correct, and originally allowed claims are for a multilayer electronic circuit article (11/30/2005)

SPE

1711
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

Paper No.

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JUN 08 2009

OFFICE OF PETITIONS

LADAS & PARRY
5670 WILSHIRE BOULEVARD, SUITE 2100
LOS ANGELES CA 90036-5679

| | | |
|---|---|---|
| In re Application of | : | |
| Ming-Ju Huang | : | |
| Application No. 11/028,775 | : | DECISION ON PETITION |
| Filed: January 3, 2005 | : | PURSUANT TO |
| Attorney Docket No.: B-5632 | : | 37 C.F.R. § 1.137(A) |
| 622403-4 | : | |
| Title: FOLDABLE STAND FOR A | : | |
| DISPLAY | : | |

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(a), submitted on April 28, 2009.

This petition is **GRANTED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed March 13, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 14, 2007. A notice of abandonment was mailed on September 25, 2007.

## RELEVANT PORTIONS OF THE C.F.R. AND MPEP

37 C.F.R. §§ 1.33(a)(2) and (b) set forth, *in toto*:

(a)(2) Where a § 1.63 oath or declaration has been filed by any of the inventors. If a § 1.63 oath or declaration has been filed, or is filed concurrent with the filing of an application, by any of the inventors, the correspondence address may be changed by the parties set forth in paragraph (b) of this section, except for paragraph (b)(2).

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
(1) A patent practitioner of record appointed in compliance with § 1.32(b);
(2) A patent practitioner not of record who acts in a representative capacity under the provisions of § 1.34;
(3) An assignee as provided for under § 3.71(b) of this chapter; or
(4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

37 C.F.R. § 3.71 states, *in pertinent part*:

(a) Patents - conducting of prosecution. One or more assignees as defined in paragraph (b) of this section may, after becoming of record pursuant to paragraph (c) of this section, conduct prosecution of a national patent application or a reexamination proceeding to the exclusion of either the inventive entity, or the assignee(s) previously entitled to conduct prosecution.
(b) Patents - assignee(s) who can prosecute. The assignee(s) who may conduct either the prosecution of a national application for patent or a reexamination proceeding are:
(1) A single assignee. An assignee of the entire right, title and interest in the application or patent being reexamined who is of record, or
(2) Partial assignee(s) together or with inventor(s). All partial assignees, or all partial assignees and inventors who have not assigned their right, title and interest in the application or patent being reexamined, who together own the entire right, title and interest in the application or patent being reexamined. A partial assignee is any assignee of record having less than the entire right, title and interest in the application or patent being reexamined.
(c) Patents - Becoming of record. An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

## ANALYSIS

A grantable petition pursuant to 37 C.F.R. § 1.137(a) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R.

§ 1.17(l);

(3) A showing to the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unavoidable, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has included the petition fee, an amendment, and a statement of facts.

The first three requirements of Rule 1.137(a) have been met. The fourth requirement of Rule 1.137(a) is not applicable, as a terminal disclaimer is not required.[1]

Regarding the third requirement of Rule 1.137(a), the electronic record shows that on February 7, 2006 and July 14, 2006, a "Change of Correspondence Address, Power of Attorney, and Revocation of Previous Powers" was submitted to the Office. Each of these two submissions was executed by Pam J. Matlock, the Secretary of Patents of the Intel Corporation, the purported Assignee. As indicated by Petitioner, each of these submissions contained the serial number 11/028,775, but each alternate identifier was incorrect.

The Office entered these submissions, and on November 20, 2006, two notification: one to the law firm of Blakely Sokoloff Taylor and Zafman indicating that the power of attorney had been accepted, and the other to Petitioner indicating that Power of Attorney had been revoked.

Consequently, the non-final Office action of March 13, 2007 was mailed to the law firm of Blakely Sokoloff Taylor and Zafman, and Petitioner has indicated that neither Applicant nor Applicant's counsel received this mailing.[2] Petitioner has further indicated that Applicant did not intend to "transfer responsibility of this application to the Blakely firm."[3]

Office records indicate that "Hanspree, Inc." is the Assignee of record. It is clear that the Intel Corporation has never been the Assignee of record. As such, pursuant to 37 C.F.R. §§ 1.33(a)(2) and (b)(3), as well as 3.71(b)(1) and 3.73(b), it was erroneous for the Office to have entered and effectuated the submissions of February 7, 2006 and July 14, 2006.

Office records have been modified so that both the Power of Attorney, and the Correspondence Address have been reverted to

1 See Rule 1.137(d).
2 Petition, page 8.
3 Id.

that which appears on the declaration that was included on initial deposit.

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 response to the non-final Office action, received on April 28, 2009, can be processed in due course.

It is noted that Petitioner has included a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.[4] Accordingly, since the $555 extension of time submitted with the petition on April 28, 2009 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Petitioner's Deposit Account.

The general phone number for the Office of Petitions that 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[5]. 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

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4 See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).
5 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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OFFICE OF PETITIONS

**KATTEN MUCHIN ROSENMAN LLP**
**575 MADISON AVENUE**
**NEW YORK NY 10022-2585**

| | | |
|---|---|---|
| In re Application of | : | |
| Yasuhiro Shibuya | : | |
| Application No. 11/028,794 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. FUJX 21.651 | : | |

This is a decision on the petition, filed July 11, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the nonfinal Office action mailed December 31, 2007, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on July 9, 2008.

Petitioner asserts that the Office action dated December 31, 2007 was not received.

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

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

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

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

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

This application is being referred to the Technology Center technical support staff of Art Unit 2618 for re-mailing the Office action of December 31, 2007. The period for reply will run from the mailing date of the Office action.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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**KATTEN MUCHIN ROSENMAN LLP**
**575 MADISON AVENUE**
**NEW YORK NY 10022-2585**

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NOV 10 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Yasuhiro Shibuya | : | |
| Application No. 11/028,794 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. FUJX 21.651 | : | |

This is a decision on the petition, filed August 24, 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 Office communication mailed January 27, 2009. A Notice of Abandonment was mailed on August 5, 2009.

Petitioner asserts that the Office communication dated January 27, 2009, was not accompanied by the re-mailing of the nonfinal rejection mailed December 31, 2007.

A petition to withdraw the holding of abandonment under 37 CFR 1.181(a) was filed on July 11, 2008. Petitioner asserts that the nonfinal rejection mailed December 31, 2007 was not received. The petition was granted on October 16, 2008, to withdraw the holding of abandonment in the above-identified application and for the technology center to re-mail the nonfinal rejection mailed December 31, 2007.

On January 27, 2009, an Office communication was mailed indicating that the application has been withdrawn. However, it appears that the re-mailing of the Office Action mailed December 31, 2007, never occurred.

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 2618 for re-mailing the Office action of December 31, 2007. The period for reply will run from the mailing date of the Office action.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions
571-272-3208

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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**HAMILTON, BROOK, SMITH & REYNOLDS, P.C.**
**530 VIRGINIA ROAD**
**P.O. BOX 9133**
**CONCORD, MA 01742-9133**

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JUL 05 2007

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| R. Adrian Bishop et al. | : | |
| Application No. 11/028,796 | : | DECISION ON PETITION |
| Filed: January 4. 2005 | : | TO WITHDRAW |
| Attorney Docket No. 2479.1054-004 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 18, 2006.

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

A review of the file record indicates that the power of attorney to Hamilton, Brook, Smith & Reynolds, P.C. has been revoked by the assignee of the patent application on March 15, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **VOLPE AND KOENIG, P.C.**
**DEPT. ICC**
**UNITED PLAZA, SUITE 1600**
**30 SOUTH 17TH STREET**
**PHILADELPHIA PA 19103**

UNITED STATES PATENT AND TRADEMARK OFFICE

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

CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM MI 48009

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SEP 17 2008

| | | |
|---|---|---|
| In re Application of<br>Pengju Kang et al.<br>Application No. 11/028,805<br>Filed: January 4, 2005<br>Attorney Docket No. **11036; 60246-400** | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>UNDER § 1.183 |

This is a decision in response to the petition filed August 18, 2008, under 37 CFR § 1.183 for waiver of the requirement under 37 CFR § 1.131 that all of the inventors sign the declaration of prior inventorship.

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

The above-identified application was filed on January 4, 2005, with a 37 CFR 1.63 declaration signed by all of the inventors. With the instant petition, applicants filed a 37 CFR § 1.131 declaration. The 37 CFR § 1.131 declaration was executed by all the joint inventors except Payman Sadegh. Applicants have filed the instant petition to have the 37 CFR § 1.131 declaration accepted as signed by all inventors on their own behalf and on behalf of non-signing inventor Payman Sadegh.

37 CFR 1.131 states, in pertinent part:

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

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

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

In order for a petition under 37 CFR § 1.183 to be granted to waive this requirement that joint inventor Sadegh sign the 37 CFR § 1.131 declaration, petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

On instant petition, applicants have set forth the steps taken to obtain joint inventor Sadegh's signature on the37 CFR § 1.131 declaration. Applicants have shown that a bona fide effort was made to reach or locate inventor Sadegh to present the 37 CFR § 1.131 declaration and supporting documentation. The declaration presented is signed by the remaining joint inventor. Under the circumstances, it is concluded that petitioner has demonstrated that this is an extraordinary situation, warranting waiver of the rules.

The petition is granted to the extent that the 37 CFR § 1.131 declaration may be entered, despite the fact that its requirement that all of the inventors sign the declaration has not been satisfied. This is not a decision on the merits of the declaration.

This matter is being referred to Technology Center 1797 for consideration on the merits of the reply and the 37 CFR § 1.131 declaration, filed August 18, 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

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 04/20/09

TO SPE OF : ART UNIT 1797

SUBJECT : Request for Certificate of Correction for Appl. No.: 11028805 Patent No.: 7494536 B2

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

**FOR IFW FILES:**

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

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

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**
**You can fax the Directors/SPE response to 571-270-9990**

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

**Thank You For Your Assistance**

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

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

**Comments:** OK

DUANE SMITH
SUPERVISORY PATENT EXAMINER

4-21-09

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/028,837 | 01/04/2005 | Michael W. Murphy | GP-304287 | 3627 |

65798 7590 08/19/2009
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS, MI 48304

| EXAMINER |
|---|
| MAPLES, JOHN S |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1795 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 08/19/2009 | 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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Alexandria, VA 22313-1450
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AUG 19 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Murphy | : | |
| Serial Number: 11/028,837 | : | DECISION |
| Filed: January 04, 2005 | : | ON |
| For: Integration Of an Electrical Diode Within A Fuel Cell | : | PETITION |

This is in response to the petition filed July 14, 2009, under 37 CFR 1.181 requesting entry of a declaration filed under 37 CFR 1.131.

The Examiner issued a Final Rejection on May 12, 2009 finding that the declaration submitted by Applicant was ineffective to overcome a reference. Applicant then filed a revised declaration that attempts to correct these deficiencies, and the Examiner refused entry thereof. The submission of the revised declaration was in direct response to the Examiner's holding that the original declaration was deficient. It is appropriate to enter and consider the declaration under these circumstances.

The Petition is **GRANTED**.

The declaration will be entered and considered by the Examiner.

/Gregory L Mills/
Gregory L. Mills, Acting Director
Technology Center 1700
Chemical and Materials Engineering

John A. Miller
MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304

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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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JJGJr: 02-05

Paper No: __

SCIENTIFIC-ATLANTA INC.
INTELLECTUAL PROPERTY DEPT.
MS 4.3.510
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

**COPY MAILED**

FEB 1 6 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Chicles, et al. | : | |
| Application No. 11/028,838 | : | DECISION ON PETITION |
| Filed: 4 January, 2005 | : | |
| Attorney Docket No. A-10283 | : | |

This is a decision on the petition filed on 18 January, 2005, requesting that the formal drawings (Figs. 1 - 8) be substituted for the informal drawings deposited with and given a filing date of 4 January, 2005, and considered under 37 C.F.R. §1.53.

The petition is **DISMISSED**.

A review of the application file reveals that:

- the instant application was deposited on 4 January, 2005, with informal drawings; and
- on 18 January, 2005, Petitioner filed the instant petition to accord a filing date of 4 January, 2005, to formal drawings, Figs. 1 - 8, sought to be substituted in the application.

Entry of an amendment to an application is the province of the Examiner, rather than a matter considered on petition.

Accordingly, the instant petition is **dismissed**.

**The Examiner shall review, during the examination process, the "Formal Drawings" to ascertain that they contain no new matter.**

The instant petition was not occasioned by an error of the Office and the fee will not be waived and is charged as authorized to Deposit Account 19-0761.

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

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

OIPE JC130
JAN 1 8 2005
PATENT & TRADEMARK OFFICE

UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| APPLICANTS: | CHICLES ET AL. | ART GROUP: | UNKNOWN |
| APPL. NO.: | TBD | EXAMINER: | UNKNOWN |
| FILED: | 1/4/2005 | DOCKET NO.: | A-10283 |
| TITLE: | USER INTERFACE SCREEN SPOTLIGHT EFFECT | | |

January 14, 2005

**PETITION UNDER 37 CFR 1.182 FOR ACCEPTANCE OF FORMAL DRAWINGS AND AUTHORIZATION TO CHARGE**

**US PATENT AND TRADEMARK OFFICE**
Mail Stop PGPUB
Commissioner for Patents
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450

Dear Sir:

Applicant in the above captioned patent application herby petitions for acceptance of the attached formal drawings in place of the original filed drawings under 37 CFR 1.182. Applicant asserts that the attached drawings are being submitted within one month of the filing date. The Commissioner is hereby authorized to charge the petition fee due pursuant to 37 CFR 1.17 (h) to deposit account #19-0761. A duplicate copy of this letter is transmitted herewith.

Respectfully submitted:

**SEND CORRESPONDENCE TO:**

By: _____
WM. BROOK LAFFERTY
Attorney of Record
Reg. No.: 39, 259
Phone: (770) 236-2114
Fax No.: (770) 236-4806

Scientific-Atlanta, Inc.
Intellectual Property Dept. MS 4.3.510
5030 Sugarloaf Parkway
Lawrenceville, GA 30044

**Certificate of Mailing**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the:

MAIL PGPUB DRAWINGS
**Commissioner for Patents**
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On JANUARY 14, 2005.

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Faye Ropski

02/16/2005 AKELLEY 00000005 190761 11028838
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UNITED STATES PATENT AND TRADEMARK OFFICE

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SCIENTIFIC-ATLANTA, INC.
INTELLECTUAL PROPERTY DEPARTMENT
5030 SUGARLOAF PARKWAY
LAWRENCEVILLE, GA 30044

Mail Date: 06/07/2010

| | | |
|---|---|---|
| **Applicant** | : Christian Thomas Chicles | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7631275 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/028,838 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **709** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**BRIDGESTONE AMERICAS HOLDING, INC.**
**1200 FIRESTONE PARKWAY**
**AKRON OH 44317**

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SEP 05 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Daniel L. Nordmeyer | : | |
| Application No. 11/028,851 | : | DECISION GRANTING PETITION |
| Filed: January 4, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. P04019US1ABFDP | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 3, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on August 28, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

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

This application is being referred to Technology Center AU 3683 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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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LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6731

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : David W. Mendenhall | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7614883 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,858 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : 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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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 05/20/2010

| | | |
|---|---|---|
| **Applicant** | : Dae-Hyun Lee | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7653047 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/26/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/028,860 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1423** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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NIXON & VANDERHYE, P.C.
901 NORTH GLEBE ROAD
11TH FLOOR
ARLINGTON, VA 22203

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**OFFICE OF PETITIONS**

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|---|---|
| In re Application of<br>Yuji Yano et al<br>Application No. 11/028,861<br>Filed: January 5, 2005<br>Attorney Docket No. 1035-563 | DECISION GRANTING PETITION<br>UNDER 37 CFR 1.313(c)(2) |

This is a decision on the petition, filed August 7, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

***Petitioner is advised that the issue fee paid on July 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) 272-3218.

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 Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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**CENTRAL COAST PATENT AGENCY, INC**
**3 HANGAR WAY, SUITE D**
**WATSONVILLE, CA 95076**

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OFFICE OF PETITIONS

In re Application of :

**DELSOL**, Orosman :
Application No. 11/028,874 : DECISION ON PETITION
Filed: February 24, 2005 : TO WITHDRAW
Attorney Docket No. **P1960** : 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 6, 2007.

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

A review of the file record indicates that the power of attorney to **CENTRAL COAST PATENT AGENCY, INC** has been revoked by the applicant of the patent application on August 8, 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **OROSMAN DELSOL**
**440 PORTAGE STREET**
**WATERTOWN, NY 13601**

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TROY MI 48007-7021

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|---|---|---|
| In re Application of | : | |
| Lynch et al. | : | DECISION ON PETITION TO |
| Application Number: 11/028879 | : | WITHDRAW HOLDING OF |
| Filing Date: 01/04/2005 | : | ABANDONMENT |
| Attorney Docket Number: TAS-14203/06 | : | |

This is a decision on the petition filed on November 14, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely file a proper reply to the non-final Office action mailed on February 7, 2008. A reply was filed on July 7, 2008, with a two (2) month extension of time. An Advisory Action Before The Filing Of An Appeal Brief was mailed on August 27, 2008, however, stating that the reply filed on July 7, 2008, fails to place the application in condition for allowance. Notice of Abandonment was mailed on October 30, 2008.

Petitioners assert that the holding of abandonment is in error, as the amendment filed on July 7, 2008, should be entered. Petitioner further asserts that it is unclear from the record whether the Office action filed on August 9, 2007, was a final or non-final Office action.

A review of the record reveals the following:

1. On March 10, 2006, a non-final Office action was mailed.

2. On July 5, 2006, an amendment was filed, along with a one (1)-month extension of time.

3. On September 5, 2006, a non-final Office action was mailed.

4. On January 22, 2007, an amendment was filed, along with a two (2)-month extension of time.

5. On April 20, 2007, an Office action requiring restriction and/or election was mailed.

6. On May 17, 2007, a response to the restriction requirement was filed.

7. On August 9, 2007, a final Office action was mailed.[1]

8. On November 9, 2007, an "Amendment After Final Action Under 37 C.F.R. 1.116" was filed.

9. On February 7, 2008, a Notice of Appeal was filed.[2]

10. On February 7, 2008, a non-final Office action was mailed.

11. On July 7, 2008, an amendment was filed, along with a two (2)-month extension of time.

12. On August 27, 2008, an Advisory Action Before the Filing of an Appeal Brief was mailed. The Advisory Action stated that the amendment filed on July 7, 2008, failed to place the application in condition for allowance, and that an Appeal Brief was due within the extendable period for reply in response to the Notice of Appeal filed on February 7, 2008.

13. On October 30, 2008, Notice of Abandonment was mailed.

Upon review, applicants properly filed the Notice of Appeal in response to the final Office action mailed on August 9, 2007, in order to continue prosecution of the application. The non-final Office action mailed on February 7, 2008, reset the clock for prosecution, however. Accordingly, applicant's amendment filed on July 7, 2008, was a proper reply to the non-final Office action mailed on February 7, 2008.

Accordingly, there is no abandonment in fact.

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[1] It is noted that the Office Action Summary cover sheet states that the action is non-final, but that Page 5 of the Office action states that the action is made final.

[2] The Notice of Appeal authorized the Office to charge any required fees to counsel's deposit account.

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

The application will be referred to Technology Center Art Unit 1616 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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INTEL CORPORATION
c/o INTELLEVATE, LLC
P.O. BOX 52050
MINNEAPOLIS, MN 55402

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| | | |
|---|---|---|
| In re Application of | : | |
| Sean W. King, et. al. | : | |
| Application No. 11/028,884 | : | ON PETITION |
| Filed: January 3, 2005 | : | |
| Attorney Docket No. 42P19927D | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed by facsimile transmission on June 22, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed March 16, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $1,400 for payment of the issue fee and $300 for payment of the publication fee; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

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MOSER, PATTERSON & SHERIDAN, LLP
APPLIED MATERIALS, INC.
3040 POST OAK BOULEVARD, SUITE 1500
HOUSTON, TX 77056

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OFFICE OF PETITIONS

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| In re Application of: | : | |
| Black et al. | : | |
| Application No. 11/028,889 | : | DECISION GRANTING |
| Filed: January 4, 2005 | : | STATUS UNDER |
| Attorney Docket Number: | : | 37 CFR 1.47(a) |
| 1324 C2/AHRDWR/DISPLAY/RK | : | |

This is a decision on the Petition filed January 4, 2005, to accord this application status under 37 CFR 1.47.

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. Under the rules currently in effect, the favorable decision in the parent application carries to the instant application. To facilitate further processing, the undersigned has prepared a copy of the decision according Rule 47 status in parent application No. 10/011,590, and has placed it in this file, to render the instant oath or declaration, which is a copy of that from the parent application, acceptable. See 37 CFR 1.63(d)(3). As noted in MPEP 201.06(c), the USPTO will not repeat the notice to the nonsigning inventor nor repeat the announcement in the Official Gazette.

The application file is being referred to Technology Center 1763.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

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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OFFICE OF PETITIONS

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| In re Application of | : | |
| Thomas E. Ramsay et al | : | |
| Application No. 11/028,959 | : | DECISION GRANTING PETITION |
| Filed: January 3, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 13095.1USC1 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed November 1, 2005, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed February 18, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on April 19, 2005. A Notice of Abandonment was mailed on October 20, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the items required by the Notice of February 18, 2005; (2) the small entity petition fee of $750; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of February 18, 20205 is accepted as having been unintentionally delayed.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
599 LEXINGTON AVENUE
33RD FLOOR
NEW YORK, NY 10022-6030

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| | | |
|---|---|---|
| In re Application of | : | |
| Freeman, et al. | : | |
| Application No. 11/028,966 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 0808915.0100 | : | 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 4, 2006.

The request is **NOT APPROVED**.

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

The 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, "this request is the attached copy of instructions from an agent of the assignee", does not meet any the conditions set forth in 37 CFR 10.40.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the

assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

The request to withdraw less than all attorneys appointed by customer number 00545 cannot be approved. The addition and/or deletion of a practitioner from the list of practitioners associated with a Customer Number should be made by submitting a "Request for Customer Number Data Change" (PTO/SB/124) which will result in the addition or deletion of such practitioner from the list of persons authorized to represent any applicant or assignee of the entire interest who appointed all of the practitioners associated with such Customer Number. See MPEP 403 Section I. Customer Number Practice.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: ANTHONY H. HANDAL, ESQ
BROWN RUDNICK BERLACK ISRAELS, LLP
SEVEN TIMES SQUARE
NEW YORK, NY 10036

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Director's Office
Group 3700

Robert J. Van Der Wall P.A.
Suite 1275
1350 South Dixie Highway
Coral Gables, FL 33146

| | | |
|---|---|---|
| In re application of<br>Herbert Uram | :<br>: | **DECISION ON PETITION**<br>**TO MAKE SPECIAL** |
| | : | **UNDER 37 CFR. 1.102(c)** |
| Serial Number: 11/028968<br>Filed: January 14, 2005 | :<br>: | |

For: **METEOROLOGICAL MODIFICATION METHOD AND APPARATUS CIP**

This is a decision on the petition filed on January 14, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

**Summary:** Decision on Petition **GRANTED**.

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

rt: 11/2/05

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United States Patent and Trademark Office
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Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Kevin T. Foley | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648512 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/028,983 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **693** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Staszewski et al. | : |
| Application No. 11/028,995 | : DECISION ON PETITION |
| Filed: January 3, 2005 | : UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. TI-33979.1 | : |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed August 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED.**

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

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

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 fails to comply with the provisions of 37 CFR 1.78(a)(2)(i) and is therefore unacceptable. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Although petitioner seeks to add two provisional applications, the entire claim of priority must be proper. Petitioner has failed to provide the relationship between the above-identified application (No. 11/028,995) and application No. 10/121,761.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, a renewed petition under 37 CFR 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 CFR 1.121, 37 CFR 1.76(b)(5) and 37 CFR 1.33(b))[1] are required.

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

By mail: Mail Stop PETITIONS
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401 Dulany Street
Alexandria, VA 22314

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

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Christina T. Donnell

Christina T. Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

In re Application of
Staszewski et al.
Application No. 11/028,995
Filed: January 3, 2005
Attorney Docket No. TI-33979.1

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the renewed petition under 37 CFR 1.78(a)(6), filed November 19, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional applications set forth in the concurrently filed amendment.

The petition is **DISMISSED.**

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

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

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) after the filing date of the application, the amendment would not be proper. MPEP 201.11 (II)(A).

This application was not filed within twelve months from the filing date of the provisional application, and there is no indication of an intermediate nonprovisional application that is

directly claiming the benefit of the provisional application and filed within 12 months of the filing date of the provisional application. A review of the record shows that intermediate application no. 10/121,761 did not contain a benefit claim to provisional applications 60/313,772 and 60/312,602.

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

By mail: Mail Stop PETITIONS
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Alexandria, VA 22313-1450

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

Any questions concerning this matter may be directed to Charlema Grant at (571) 272-3215.

Anthony Knight
Supervisor
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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DALLAS, TX 75265

Mail Date: 05/10/2010

| | | |
|---|---|---|
| **Applicant** | : Robert B. Staszewski | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7623838 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/24/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/028,995 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : 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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SUITE 500
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WASHINGTON DC 20007

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JUN 22 2009

OFFICE OF PETITIONS

| | |
|---|---|
| In re Patent No. 7,474,622 | : DECISION ON REQUEST FOR |
| Tsukasa Ueno | : RECONSIDERATION OF |
| Issue Date: January 6, 2009 | : PATENT TERM ADJUSTMENT |
| Application No. 11/029,002 | : and |
| Filed: January 5, 2005 | : NOTICE OF INTENT TO ISSUE |
| Atty Docket No. 072982-0258 | : CERTIFICATE OF CORRECTION |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705" filed March 5, 2009. Patentees request that the patent term adjustment indicated in the patent be corrected from five hundred ninety-seven (597) days to nine hundred twenty-three (923) days.

The request for reconsideration of patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **FIVE HUNDRED AND SXITY-TWO (562)** days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer,** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On January 6, 2009, the above-identified application matured into US Patent No. 7,474,622 with a patent term adjustment of 597 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.

assert that in view of the decision in Wyeth, they are entitled to a total patent term adjustment of 923 days, which includes 367 days of patent term adjustment due to exceeding three year pendency and 620 days due to USPTO delay in prosecution."

The 367-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 5, 2005, and the patent having been issued on January 6, 2009, three years and 367 days later. Patentees assert that in addition to this 367 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 620 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 dispute the period of reduction of 23 days for applicant delay and argue that the period of reduction should be 64 days.

A review of the record reveals that an additional period of reduction should be entered for applicant's failure to engage pursuant to 37 CFR 1.704(c)(10).

A Notice of Allowance was mailed on August 12, 2008. Patentees filed an IDS on October 2, 2008. In response thereof, a Supplemental Notice of Allowability was mailed on October 24, 2008 which set the calculation period of reduction pursuant to 37 CFR 1.704(b), if any, for applicant delay. The filing of the IDS after the mailing of the Notice of Allowance on August 12, 2008 constituted a failure to engage pursuant to 37 CFR 1.704(c)(10). This period is 23 days, counting the number of days in the period beginning on October 2, 2008 and ending on October 24, 2008, the date of mailing of the Notice of Allowability in response. Applicant argues however that a Supplemental IDS was filed on October 31, 2008 and in response thereof, another Supplemental Notice of Allowability was mailed on December 4, 2008 and thus an additional period of 41 days should be entered for failure to engage pursuant to 37 CFR 1.704(c)(10) counting the number of days in the period beginning on October 31, 2008 and ending on December 4, 2008, the date of mailing of the Notice of Allowability in response.

In view thereof, the patent term adjustment should have included an additional reduction of 35 days beginning on October 31, 2008 and ending on December 4, 2008.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (367 days) and the period of Examination Delay (620 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 987 days, which is the sum of the period of Three Year Delay (367days) and the period of Examination Delay (620 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 923 days (367 + 620 reduced by 0 overlap – 64 (applicant delay)).

The Office agrees that as of the issuance of the patent on January 6, 2009, the application was pending three years and 367 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 620 days is correct. At issue is whether patentees should accrue 367 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 620 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 367 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 January 5, 2008, 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, January 5, 2005, to the date the patent issued on January 6, 2009. Prior to the issuance of the patent, 620 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 367 days for Office delay in issuing the patent overlap with the 620 days of Office delay. During that time, the issuance of the patent was delayed by 620 days; not 620 + 367 days. The Office took 14 months and 620 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 620 days of Office delay and the 64 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 367 days. The Office did not delay 620 days and then an additional 367 days. Accordingly, 620 days of patent term adjustment (not 620 and 367 days) was properly entered since the period of delay of 367 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 620 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 620 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 367 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.

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[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

The application 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 **FIVE HUNDRED SIXTY TWO(562)** days.

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

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

Enclosure: Copy of DRAFT Certificate of Correction

Day : Monday
Date: 6/22/2009

PALM INTRANET

Time: 09:52:00

| PTA Calculations for Application: 11/029002 | | | |
|---|---|---|---|
| Application Filing Date: | 01/05/2005 | PTO Delay (PTO): | 620 |
| Issue Date of Patent: | 01/06/2009 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 23 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 562 |
| PTO Delay Adjustment: | -35 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 75 | 06/22/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 35 | |
| 71.5 | 12/17/2008 | PTA 36 MONTHS | | | |
| 71 | 01/06/2009 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 69 | 12/10/2008 | EXPORT TO FINAL DATA CAPTURE | | | |
| 68 | 12/09/2008 | DISPATCH TO FDC | | | |
| 67 | 12/09/2008 | DISPATCH TO FDC | | | |
| 66 | 12/04/2008 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 65 | 12/04/2008 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 64 | 12/03/2008 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 63 | 10/31/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 62 | 10/31/2008 | PUBS CASE REMAND TO TC | | | |
| 61 | 10/31/2008 | ISSUE FEE PAYMENT VERIFIED | | | |
| 60 | 10/31/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 59 | 10/31/2008 | ISSUE FEE PAYMENT RECEIVED | | | |
| 58 | 10/24/2008 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 57 | 10/21/2008 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 56 | 10/02/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 55 | 10/02/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| | | INFORMATION DISCLOSURE STATEMENT (IDS) | | | |

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|---|---|---|---|---|---|
| 54 | 10/02/2008 | FILED | | 23 | 58 |
| 53 | 09/10/2008 | FINISHED INITIAL DATA CAPTURE | | | |
| 52 | 08/15/2008 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 51 | 08/12/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 50 | 08/11/2008 | ISSUE REVISION COMPLETED | | | |
| 49 | 08/11/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 48 | 08/11/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 47 | 08/11/2008 | DOCUMENT VERIFICATION | | | |
| 46 | 08/06/2008 | NOTICE OF ALLOWABILITY | | | |
| 45 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 44 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 41 | 07/30/2008 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 07/25/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 39 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 38 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 36 | 05/14/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 35 | 05/12/2008 | FINAL REJECTION | | | |
| 34 | 03/04/2008 | DATE FORWARDED TO EXAMINER | | | |
| 33 | 02/13/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 32 | 11/15/2007 | MAIL NON-FINAL REJECTION | 620 | | -1 |
| 31 | 11/13/2007 | NON-FINAL REJECTION | | | |
| 27 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 26 | 09/19/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 25 | 10/09/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 24 | 01/18/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 03/22/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 22 | 01/27/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 21 | 09/19/2005 | REFERENCE CAPTURE ON IDS | | | |
| 20.7 | 09/19/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 09/19/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| | | REQUEST FOR FOREIGN PRIORITY (PRIORITY | | | |

| | | | | | |
|---|---|---|---|---|---|
| 19 | 01/05/2005 | PAPERS MAY BE INCLUDED) | | | |
| 18 | 01/05/2005 | REFERENCE CAPTURE ON IDS | | | |
| 17.7 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 16 | 08/21/2005 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 15 | 08/21/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
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| 10 | 02/25/2005 | APPLICATION RETURN FROM OIPE | | | |
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| 8 | 02/24/2005 | APPLICATION RETURN FROM OIPE | | | |
| 7 | 02/25/2005 | APPLICATION IS NOW COMPLETE | | | |
| 6 | 02/24/2005 | APPLICATION RETURN TO OIPE | | | |
| 5 | 02/24/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 4 | 02/24/2005 | APPLICATION IS NOW COMPLETE | | | |
| 3 | 02/12/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 02/05/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 01/05/2005 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,474,622 B2

DATED : January 6, 2009

INVENTOR(S) : Tsukasa Ueno

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 (597) days

Delete the phrase "by 597 days" and insert – by 562 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED

APR 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,474,622
Issued: January 6, 2009
Application No. 11/029,002
Filed: January 5, 2005
Attorney Docket No. 072982-0258

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the Request for Reconsideration of Decision on Request for Reconsideration of Patent Term Adjustment filed on July 21, 2009 within two months of the date of decision by the USPTO, requesting that the patent term adjustment be corrected from 562 to 923 days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred twenty-nine (929) days is **GRANTED to the extent indicated herein**.

At the outset, patentees have miscalculated the total patent term examination. It is undisputed that the period of examination delay, "A" delay", pursuant to 37 CFR 1.702(a)(1) is 620 days. The "B" delay period, the over three year period begins on January 5, 2008 and ends on January 6, 2009 and therefore is 367 days. As such, the patent term adjustment is 929 days (620 plus 367 minus 58 days applicant delay), not 923 days. See the decision dated June 22, 2009 which noted that the applicant delay included 23 days for the filing of an Information Disclosure Statement on October 2, 2008 and an additional period of reduction in the amount of 35 days for the filing of a Supplemental Information Disclosure Statement on October 31, 2008 and thus applicant's failure to engage pursuant to 37 CFR 1.704(c)(10) for the period October 31, 2008 to December 4, 2008.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or

patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.
The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **nine hundred twenty-nine (929)** days.

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

/Kery A. Fries/

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

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

PATENT : 7,474,622 B1

DATED : January 6, 2009

INVENTOR(S) : Ueno

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 (562) days

Delete the phrase "by 562 days" and insert – by 929 days--

Day : Friday
Date: 3/26/2010

PALM INTRANET

Time: 16:16:05

| PTA Calculations for Application: 11/029002 | | | |
|---|---|---|---|
| Application Filing Date: | 01/05/2005 | PTO Delay (PTO): | 620 |
| Issue Date of Patent: | 01/06/2009 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 23 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 929 |
| PTO Delay Adjustment: | 332 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 80 | 03/26/2010 | ADJUSTMENT OF PTA CALCULATION BY PTO | 367 | | |
| 77 | 06/22/2009 | RECORD A PETITION DECISION OF GRANTED FOR PATENT TERM ADJUSTMENT AFTER ALLOWANCE | | | |
| 75 | 06/22/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 35 | |
| 71.5 | 12/17/2008 | PTA 36 MONTHS | | | |
| 71 | 01/06/2009 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 69 | 12/10/2008 | EXPORT TO FINAL DATA CAPTURE | | | |
| 68 | 12/09/2008 | DISPATCH TO FDC | | | |
| 67 | 12/09/2008 | DISPATCH TO FDC | | | |
| 66 | 12/04/2008 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 65 | 12/04/2008 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 64 | 12/03/2008 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 63 | 10/31/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 62 | 10/31/2008 | PUBS CASE REMAND TO TC | | | |
| 61 | 10/31/2008 | ISSUE FEE PAYMENT VERIFIED | | | |
| 60 | 10/31/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 59 | 10/31/2008 | ISSUE FEE PAYMENT RECEIVED | | | |
| 58 | 10/24/2008 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 57 | 10/21/2008 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| | | INFORMATION DISCLOSURE STATEMENT | | | |

| | | | | | |
|---|---|---|---|---|---|
| 56 | 10/02/2008 | CONSIDERED | | | |
| 55 | 10/02/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 54 | 10/02/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 23 | 58 |
| 53 | 09/10/2008 | FINISHED INITIAL DATA CAPTURE | | | |
| 52 | 08/15/2008 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 51 | 08/12/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 50 | 08/11/2008 | ISSUE REVISION COMPLETED | | | |
| 49 | 08/11/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 48 | 08/11/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 47 | 08/11/2008 | DOCUMENT VERIFICATION | | | |
| 46 | 08/06/2008 | NOTICE OF ALLOWABILITY | | | |
| 45 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 44 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 41 | 07/30/2008 | DATE FORWARDED TO EXAMINER | | | |
| 40 | 07/25/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 39 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 38 | 07/08/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 36 | 05/14/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 35 | 05/12/2008 | FINAL REJECTION | | | |
| 34 | 03/04/2008 | DATE FORWARDED TO EXAMINER | | | |
| 33 | 02/13/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 32 | 11/15/2007 | MAIL NON-FINAL REJECTION | 620 | | -1 |
| 31 | 11/13/2007 | NON-FINAL REJECTION | | | |
| 27 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 26 | 09/19/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 25 | 10/09/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 24 | 01/18/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 03/22/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 22 | 01/27/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 21 | 09/19/2005 | REFERENCE CAPTURE ON IDS | | | |
| | | INFORMATION DISCLOSURE STATEMENT (IDS) | | | |

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|---|---|---|---|---|---|
| 20.7 | 09/19/2005 | FILED | | | |
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| 1 | 01/05/2005 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No**.:20090514

**DATE** : May 14, 2009

**TO SPE OF** : ART UNIT 3768

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7280858

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:**

/Long V Le/
Supervisory Patent Examiner, Art Unit 3768

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

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AUG 2 6 2008

VIVIAN A. FONSECA
1430 TULANE AVENUE SL53
NEW ORLEANS LA 70112

| | | |
|---|---|---|
| In re Application of | : | |
| Fonseca, et al. | : | DECISION |
| Application No.: 11/029,048 | : | |
| Filing Date: 4 January, 2005 | : | |
| Attorney Docket No. 900/(None) | : | |

This is a decision on the petition filed on 16 November, 2007, which because of the surrounding facts (Hurricane Katrina) and because no fee was included is 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, and supplemented on 4 and 11 August, 2008, with a petition under 37 C.F.R. §1.137(a) to revive the application as having been abandoned due to unavoidable 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. §1.181 is **DISMISSED**, however, the petition as considered under 37 C.F.R. §1.137(a) is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

A proper showing (for relief under 37 C.F.R. §1.181):

- (as to non-receipt) 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,

- (for a showing of timely and proper reply) requires a statement from practitioner stating that the reply was timely submitted by the practitioner; and 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.

As to Allegations 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.)

## BACKGROUND

The record reflects that:

At times pertinent hereto the offices of Petitioner (an applicant and co-inventor herein) and those of his former Counsel were in New Orleans, Louisiana.

The Office mailed a Notice to File Corrected Application Papers (to file separate abstract) on 6 April, 2005, with reply due absent extension of time on or before 6 June, 2005—and, as will become clear it is important to note that the period potentially was extendable to 6 October, 2005—however, on 17 October, 2005, the Office withdrew that Notice.

By that time, Hurricane Katrina had struck the region on or about 29 August, 2005, and flooded the city within a day as levees were breached, compelling a mandatory evacuation of the city ordered by governmental officials.

That complete evacuation was maintained for approximately three (3) months, though as Petitioner indicates his university medical center offices were closed for about nine (9) months, and even at this writing many persons never have returned to their homes and offices because these literally were washed away.

It appears that Petitioner's former Counsel was not able to return to offices in the city, though his efforts of diligence in the application are evidenced in that he did file from another location an information disclosure statement on 28 March, 2006.

The Office again mailed a Notice to File Corrected Application Papers (to file separate abstract), this time on 17 July, 2006, with reply due absent extension of time on or before 17 September, 2006.

To confuse the matter further, on 17 July, 2006, the Office also mailed a withdrawal of the 17 October, 2005, Notice, which paper withdrew the 6 April, 2005 Notice.

On 14 August, 2006, a withdrawal of attorney is submitted by Counsel with instructions to direct correspondence to Petitioner's office address at Tulane University Medical School in New Orleans.

It does not appear that Petitioner filed a reply to the 17 July, 2006, Notice to File Corrected Application Papers before the Office mailed a Notice of Abandonment on 20 September, 2007.

On 16 November, 2007, Petitioner filed (*pro se*) the original petition without fee and averring non-receipt (though using the term "unavoidable delay"), and so this paper is considered here as a request to withdraw the holding of abandonment. However, it is noted that documents necessary to support the averment (consistent with the showing requirements set forth in the guidance of the Commentary at MPEP §711.03( c)(I)(A) and (B) (as to non-receipt or timely filing, [1] respectively (see: the discussion at:

---

[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.

http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c )) have not been submitted.

(It is not proper for the Office to conjecture whether this was due to oversight or because documents may not be available because they were destroyed in the storm flooding.)

Petitioner filed on 4 and 11 August, 2008, a form petition alleging unavoidable delay under 37 C.F.R. §1.37(a) with fee, a showing including the foregoing history, and a reply in the form of an abstract.

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

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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 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).

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.

The statutes, the rules of practice and the guidance set forth in the Commentary of the Manual of Patent Examining Procedure (MPEP) provide many avenues for action and methods of protection for applicants, patentees, assignees, practitioners and others to accomplish tasks before the Office. (*See*, for example: MPEP §711.03( c).) However, persons who fail to utilize those statutes and rules fail to succeed in their tasks or obtain those protections.

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

Petitioner failed to make the showing required, though he appears to have attempted to be timely in his efforts.

As to the Allegations
of Unavoidable Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(a) are the petition and fee, a showing of unavoidable delay, a proper reply, and–where appropriate–a terminal disclaimer and fee. (As noted earlier, it does not appear that a terminal disclaimer and fee are due here.)

It appears that Petitioner has satisfied the regulatory requirements.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**, however, the petition under 37 C.F.R. §1.137(a) is **granted**.

The instant application is released to the Office of Patent Application Processing (OPAP) 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 OPAP in response to this decision—and it is

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

noted that all inquiries with regard to any failure of that change in status should be directed to OPAP where that change of status must be effected.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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

The abstract is as follows:

A method of lowering homocysteine level of an individual and of reducing the vascular pathology associated therewith, by administering a ligand of the peroxisome proliferator activate receptor gamma. The peroxisome proliferator activated receptor preferably may be rosiglitazone.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Paper No.

Rhodia Inc.
259 Prospect Plains Road
CN7500
Cranbury NJ 08512

COPY MAILED

OCT 24 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Duffy et al. | : | |
| Application No. 11/029,061 | : | DECISION ON |
| Filed: January 4, 2005 | : | PETITION |
| Attorney Docket No. RN97163D2 | : | |

This is a decision on the PETITION TO WITHDRAW HOLDING OF ABANDONMENT filed June 20, 2008.

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

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f).

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed July 5, 2007. This Office action set a three-month period for reply, with extensions of time obtainable under §1.136(a). No reply timely filed and no extension of time obtained, the application became abandoned on October 6, 2007. A courtesy Notice of Abandonment was mailed on February 11, 2008.

In response, applicants filed the instant petition, asserting that applicants did not receive the Office action mailed July 5, 2007. Applicants state that their representative first became aware of the Office action upon receiving the Notice of Abandonment. In support thereof, applicants submit a declaration of facts of Cindy Miller, a Manager of IP Services

with the law firm of Buchanan Ingersoll, and copies of Buchanan Ingersoll docketing records.

A review of the application file reveals no irregularities in the mailing of the Office action mailed July 5, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicant at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

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

Petitioner's evidence has been considered, but not found adequate to meet the above showing. A review of the record confirms that the correspondence address of record, as declared on the executed declaration, is that of Rhodia, Inc. and not that of the law firm of Buchanan Ingersoll. The showing of non-receipt of the Office action by Buchanan Ingersoll is inadequate to overcome the conclusion that the Office action was properly mailed to applicants at Rhodia, Inc., the correspondence address of record. In view thereof, withdrawal of the holding of abandonment is not warranted. The petition must be dismissed.

Any request for reconsideration must include an adequate showing of non-receipt at the correspondence address of record.

Alternatively, applicants may submit a petition to revive pursuant to 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.

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

**MAILED**

MAY 27 2009

OFFICE OF PETITIONS

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| In re Application of | : | |
| Duffy et al. | : | |
| Application No. 11/029,061 | : | DECISION ON |
| Filed: January 4, 2005 | : | PETITION |
| Atty Docket No.0070681-000083 | : | |

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 9, 2009. It is noted that this petition appears to be filed on behalf of the assignee. A 3.73(b) statement, filed November 24, 2008, is of record in the application.

The petition is **GRANTED**.

The above-identified application became abandoned effective October 6, 2007 for failure to file a reply to the non-final Office action mailed July 5, 2007. A courtesy Notice of Abandonment was mailed on February 11, 2008. By decision mailed October 24, 2008, the prior petition to withdraw the holding of abandonment filed June 20, 2008 was dismissed.

The petition includes the required reply in the form of an amendment, and payment of the petition fee. No terminal disclaimer is required.

The petition also includes the required statement of unintentional delay. The attorney who filed this petition and signed the statement of unintentional delay was made of record by the assignee after the abandonment of the application. Thus, 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.

Technology Center AU 1796 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed March 9, 2009.

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
ALEXANDRIA, VA 22313-1450
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JOHN J. DANIELS, ESQ
511 FOOT HILLS ROAD
HIGGANUM, CT 06441

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FEB 14 2006

**OFFICE OF PETITIONS**

In re Application of
John J. Daniels, et al.
Application No. 11/029,129
Filed: January 4, 2005
Attorney Docket No. AT-0105(A)

ON PETITION

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

It does not appear that the petition is signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Richard R. Michaud 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. However, if Mr. Michaud desires to receive correspondence regarding this file, the appropriate power of attorney documentation must be submitted. A courtesy copy of this decision is being mailed to Mr. Michaud, 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 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 28, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.*** [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

[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 application is being referred to Technology Center AU 2818 for further processing of the request for continued examination under 37 CFR 1.114 filed February 3, 2006.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MICHAUD-DUFFY GROUP LLP
306 INDUSTRIAL PARK ROAD
SUITE 206
MIDDLETOWN, CT 06457

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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LEE, HONG, DEGERMAN, KANG & WAIMEY
660 S. FIGUEROA STREET
Suite 2300
LOS ANGELES, CA 90017

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FEB 26 2009

OFFICE OF PETITIONS

| | | |
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| In re Application of | : | |
| Young Dae Lee, et al. | : | |
| Application No. 11/029,131 | : | ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. 2101-3078 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed November 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition is not signed by a registered attorney or agent of record.. However, in accordance with 37 CFR 1.34(a), the signature of Craig W. Schmoyer 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 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 7, 2008. This decision precedes the mailing of a Notice of Abandonment. On November 26, 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), including the fee of $810; (2) the petition fee of $1,540; and (3) an adequate statement of unintentional delay[1].

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

[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.

This application is being referred to Technology Center AU 2617 for processing of the RCE in accordance with 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: EDWARD C. LAROSE
900 S. GAY STREET, SUITE 1871
KNOXVILLE, TN 37902

UNITED STATES PATENT AND TRADEMARK OFFICE

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**EXXONMOBIL RESEARCH & ENGINEERING COMPANY**
**P.O. BOX 900**
**1545 ROUTE 22 EAST**
**ANNANDALE NJ 08801-0900**

MAILED

JUL 09 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Cartwright, Stanley James | : | |
| Application No. 11/029,147 | : | ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. JJD-0420 | : | |

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 Request for Continued Examination (previously submitted on March 26, 2008) and a Submission under 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) 272-3206.

This matter is being referred to Technology Center AU 1797 for processing of the Request for Continued Examination under 37 CFR 1.114.

Liana Walsh
Petitions Examiner
Office of Petitions

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NUTTER MCCLENNEN & FISH LLP
SEAPORT WEST
155 SEAPORT BOULEVARD
BOSTON, MA 02210-2604

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Colin P. Britton | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640239 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,164 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **501** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

# UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/029,198 | 01/04/2005 | Jens Hyldig-Nielsen | BP0001US-DV1 | 8206 |

23544 7590 02/15/2008
Applied Biosystems
850 Lincoln Center Drive
Foster City, CA 94404

| EXAMINER |
|---|
| MYERS, CARLA J |

| ART UNIT | PAPER NUMBER |
|---|---|
| 1634 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 02/15/2008 | 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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FEB 1 5 2008

Applied Biosystems
850 Lincoln Center Drive
Foster City CA 94404

| | |
|---|---|
| In re Application of | : |
| J. J. Hyldig-Nielsen | : |
| Serial No.: 11/029,198 | : PETITION DECISION |
| Filed: January 4, 2005 | : |
| Attorney Docket No.: BP0001US-DV1 | : |

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed February 14, 2008. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee of $130.00 under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-0584or by facsimile transmission at 571-273-8300.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Paul Ignatius | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581077 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,211 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **216** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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MAR 29 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Mrksich et al. | : | DECISION ON PETITIONS |
| Application No. 11/029,224 | : | UNDER 37 CFR 1.78(a)(3) |
| Filed: 4 January, 2005 | : | and 37 CFR 1.78(a)(6) |
| Atty Docket No. 7814-88 | : | |

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed on 6 September, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of the prior-filed international application set forth in the petition. This is also 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 the prior-filed provisional application 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 where there is a question whether the delay was unintentional.

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed PCT 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 and 365(c) to the prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), 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 international 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 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 in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant 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)(iii). Additionally, the instant application

claims the benefit of intermediate international Application No. PCT/US03/21224, which was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/393,896, which was filed on 5 July, 2002, 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.

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

***The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should <u>not</u> be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 365(c) and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should <u>not</u> be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

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

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other

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

This application is being forwarded to Technology Center Art Unit 1641 for appropriate action on the amendment submitted 6 September, 2005, including consideration by the examiner of the claim for the benefit of priority to the prior-filed applications.

Frances Hicks
Lead Paralegal
Office of Petitions

Attachment: Corrected Filing Receipt

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

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OCT 08 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| John Brett, et al. | : | |
| Application No. 11/029,229 | : | NOTICE |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. 04-268 | | |

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

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

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

This application no longer qualifies for small entity status. Accordingly, all future fees must be paid at the large entity rate.

Inquiries related to this communication should be directed to the Office of Petitions Staff at (571) 272-3201.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Bernd Kesch | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7594389 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,240 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/03/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **11** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CHARLES C.H. WU
98 DISCOVERY
IRVINE, CA 92618-3105

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MAY 29 2008

**OFFICE OF PETITIONS**

In re Application of :
Paul G. Schmitt :
Application No. 11/029,249 : ON PETITION
Filed: December 31, 2004 :
Attorney Docket No. 893-04123005 :

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 31, 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 February 1, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405 and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $525 extension of time submitted with the petition on January 25, 2008 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 the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3618 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

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**HENRYK MALAK**
**8444 HIGH RIDGE ROAD**
**ELLICOTT CITY MD 21043**

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OCT 27 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Henryk MALAK | : | |
| Application No. 11/029,258 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. | : | |

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

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 16, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(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 October 17, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment that places the application in condition for allowance; (2) the petition fee of $770; and (3) the required statement of unintentional delay have been received.

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

This application is being referred to Technology Center AU 2877 for appropriate action by the Examiner in the normal course of business.

Thurman Page
Petitions Examiner
Office of Petitions

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**WILLIAMS MULLEN**
**FOUNTAIN PLAZA THREE, SUITE 200**
**721 LAKEFRONT COMMONS**
**NEWPORT NEWS VA 23606**

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DEC 2 3 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Orton, Denis G. | : | |
| Application No. 11/029,277 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 044476.1 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 7, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the inventor. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272-3206.

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

The matter will remain in the Office of Petitions for review of the petition to revive the instant application. Upon revival, the application will be forwarded to the Technology Center Art Unit 3749 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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**FOUNTAIN PLAZA THREE, SUITE 200**
**721 LAKEFRONT COMMONS**
**NEWPORT NEWS VA 23606**

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| | | |
|---|---|---|
| In re Application of | : | |
| Orton, Denis George | : | |
| Application No. 11/029,277 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 044476.1 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 7, 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 a replacement specification, preliminary amendment and claim fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action mailed February 23, 2005 has been accepted as having been unintentionally delayed.

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

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

Liana Chase
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 4/16/07

Paper No.: —

TO SPE OF : ART UNIT 1752

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/029295 Patent No.: 7125649B2

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: The change in "column 12, claim 9, line 54 "from" should read -- through -- is denied. The language "from" is consistent with the claim amended on 12/22/05.

Cynthia H Kelly — SPE

1795 — Art Unit

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8th Floor
San Francisco, CA 94111-3834

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| | | |
|---|---|---|
| In re Application of | : | |
| Sudeep Bhoja et al. | : | |
| Application No. 11/029,297 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 012795-000700US | : | 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 20, 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 Ko-Fang Chang on behalf of all attorneys of record who are associated with Customer No. 20350.

All attorneys/agents associated with the Customer No. 20350 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 assignee properly intervenes with a complete 3.73(b) submission. The December 27th, 2005 submission fails to comply with 37 CFR 3.73(b), in that the complete chain of title from the original owner to the present assignee has not been provided.

There is no outstanding Office action at this time.

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

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Sudeep Bhoja
1474 De Palma Drive
San Jose, CA 95120

cc: Dan Cavanagh
Christie, Parker & Hale LLP
3501 Jamboree Road
North Tower, Suite 6000
Newport Beach, CA 92660

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/029,297 | 01/04/2005 | Sudeep Bhoja | 021795-000700US |

**CONFIRMATION NO. 8969**

*OC000000020315341*

*OC000000020315341*

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

Date Mailed: 09/06/2006

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/27/2005.

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

---

J. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

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1474 DE PALMA DRIVE
SAN JOSE, CA 95120

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AUG 3 1 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Sudeep Bhoja, et al. | : | |
| Application No. 11/029,297 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | |
| Attorney Docket No. 021795-000700US | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 8, 2009, to revive the above-identified application.

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.

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

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 13, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 14, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The petition is **GRANTED**.

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.

This application is being referred to Technology Center AU 2611 for appropriate action by the Examiner in the normal course of business on the reply received July 8, 2009.

April M. Wise
Petitions Examiner
Office of Petitions

cc: DANIEL M. CAVANAGH
43 CORPORATE PARK
SUITE 204
IRVINE, CA 92606

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**555 WEST FIFTH STREET**
**SUITE 3500**
**LOS ANGELES, CA 90013-1024**

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JUN 1 3 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| **DIAMOND,** Jordan P. et al. | : | |
| Application No. 11/029,299 | : | DECISION ON PETITION |
| Filed: January 04, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **480062005100** | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 05, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on May 19, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **RUTAN & TUCKER, LLP.**
**611 ANTON BLVD**
**SUITE 1400**
**COSTA MESA, CA 92626**

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McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, Illinois 60606

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**OFFICE OF PETITIONS**

In re Application of
Liu et al.
Application No. 11/029,308
Filed: January 5, 2005
Attorney Docket No. H0006640-1600

: DECISION GRANTING PETITION

This application for PTA is in response to Applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR 1.702(B)" timely[1] filed on August 3, 2007 requesting that the Office adjust the amount of PTA at the time of the mailing of the notice of allowance from a determination of zero days to a determination of three hundred and sixty-four (364) days

Applicants request for reconsideration is **GRANTED-IN-PART.** The Office will adjust the PTA calculation to reflect a determination at the time of the mailing of the notice of allowance of **THREE HUNDRED AND SEVENTY FIVE (375)** days.[2]

Specifically, applicants assert that the three hundred and seventy-one (375) days of adjustment pursuant to 37 CFR 1.702(a)(1) is accurate. Applicants assert that the Office erred in holding that applicants failed to engage in reasonable efforts to conclude prosecution of the application pursuant to 37 CFR 1.704(c)(8) for the submission of the IDS after the reply to the request for applicant statement regarding potential NASA interest that was filed by applicants on June 30, 2005. Applicant believe that the 421 day application reduction is in error.

Applicants arguments are persuasive. The Office has reviewed the file and determined that the IDS submitted on August 25, 2006 is not considered a supplemental paper under 37 CFR 1.704(c)(8). Applicant did not fail any reasonable efforts to conclude prosecution of the application. Accordingly, the correct determination at the time of the mailing of the notice of allowance is 375 (375-0=375) days.

After the mailing of this decision, the patent application will be forwarded to the Office of Patent

---

[1]Issue fee was paid on September 7, 2007

[2]Applicants request for 364 days is not accurate. The delay for missing the 14-month requirement under 37 CFR 1/702(a)(1) is 375 as calculated by the Office. The delay began on March 6, 2006, the day after the 14 month date and ends March 15, 2007, the date of the mailing of the non-final office action.

Publication for a prompt issuance of the patent. Any delays in issuance of the patent will be reflected in the PTA determination provided with the issue notification letter that is mailed approximately three weeks prior to the issuance of the patent. Office delays pursuant to 37 CFR 1.702(a)(4) and 1.702(b) as well as applicant delays under 37 CFR 1.704(c)(10) are not calculated until the issuance of the patent.

Applicants have paid the $200.00 application fee as noted in 1.18(e). No additional fees are required for this decision.

Any questions concerning this decision should be addressed to Kery Fries, Senior Legal Advisor, Office of Patent Legal Administration, Office of Deputy Commissioner for Patent Examination Policy.

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

cc: copy of adjusted PAIR calculation

Day : Tuesday
Date: 12/11/2007

PALM INTRANET

Time: 17:19:46

| PTA Calculations for Application: 11/029308 | | | |
|---|---|---|---|
| Application Filing Date: | 01/05/2005 | PTO Delay (PTO): | 375 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 421 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 375 |
| PTO Delay Adjustment: | 421 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 48 | 12/11/2007 | ADJUSTMENT OF PTA CALCULATION BY PTO | 421 | | |
| 38 | 07/03/2007 | MAIL NOTICE OF ALLOWANCE | | | |
| 37 | 06/30/2007 | ISSUE REVISION COMPLETED | | | |
| 36 | 06/28/2007 | ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING | | | |
| 35 | 06/28/2007 | DOCUMENT VERIFICATION | | | |
| 34 | 06/28/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 33 | 06/25/2007 | NOTICE OF ALLOWABILITY | | | |
| 32 | 06/23/2007 | DATE FORWARDED TO EXAMINER | | | |
| 31 | 06/15/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 30 | 03/15/2007 | MAIL NON-FINAL REJECTION | 375 | | -1 |
| 29 | 03/05/2007 | NON-FINAL REJECTION | | | |
| 28 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 27 | 08/25/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 26.7 | 08/25/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 421 | 21 |
| 26 | 08/25/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 25 | 12/20/2005 | RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS | | | |
| 24 | 12/20/2005 | RECEIPT OF ACKNOWLEDGMENT LETTER | | | |
| 23 | 11/01/2005 | RECEIPT OF ACKNOWLEDGMENT LETTER | | | |
| 22 | 07/08/2005 | RECEIPT OF ACKNOWLEDGMENT LETTER | | | |
| 21 | 06/30/2005 | APPLICANT RESPONSE RECEIVED | | | |
| | | IFW TSS PROCESSING BY TECH CENTER | | | |

| | | | | | |
|---|---|---|---|---|---|
| 20 | 06/01/2005 | COMPLETE | | | |
| 19 | 06/01/2005 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18.7 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 18 | 01/05/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 01/05/2005 | REFERENCE CAPTURE ON IDS | | | |
| 16 | 05/18/2005 | REQUEST FOR APPLICANT STATEMENT REGARDING POTENTIAL NASA INTEREST (45-DAY LETTER) MAILED | | | |
| 15 | 04/05/2005 | APPLICATION RETURN FROM OIPE | | | |
| 14 | 04/06/2005 | APPLICATION IS NOW COMPLETE | | | |
| 13 | 04/05/2005 | APPLICATION RETURN TO OIPE | | | |
| 12 | 04/05/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 11 | 04/05/2005 | APPLICATION IS NOW COMPLETE | | | |
| 10 | 04/05/2005 | AGENCY REFERRAL LETTER MAILED | | | |
| 9 | 04/05/2005 | AGENCY REFERRAL LETTER MAILED | | | |
| 8 | 04/05/2005 | AGENCY REFERRAL LETTER MAILED | | | |
| 7 | 04/04/2005 | REFERRED FOR NASA PROPERTY RIGHTS REVIEW BY L&R LARS | | | |
| 6 | 04/04/2005 | REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED | | | |
| 5 | 04/04/2005 | REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED | | | |
| 4 | 04/04/2005 | REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED | | | |
| 3 | 02/09/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 2 | 02/05/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 01/05/2005 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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APR 26 2007

OFFICE OF PETITIONS

**Maria Erlinda C. Sarno**
**P.O. Box 1023**
**Artesia, CA 90702**

| | | |
|---|---|---|
| In re Application of | : | |
| Jonatan Cvetko et al. | : | |
| Application No. 11/029,312 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 06-090-Z | : | 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 28, 2006.

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

A review of the file record indicates that the power of attorney to Maria Erlinda C. Sarno, Esq., has been revoked by the applicant of the patent application on January 8, 2007. 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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Mr. Gentle Winter
Belasco, Jacobs & Townsley, LLP
6100 Center Drive, Suite 630
Los Angeles, CA 90045

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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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/029,312 | 01/05/2005 | Jonatan Cvetko | 06-090-Z |

**CONFIRMATION NO. 9398**

*OC000000023539542*

Maria Erlinda C. Sarno, Esq.
P.O. Box 1023
Artesia, CA 90702

Date Mailed: 04/25/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/08/2007.

- The Power of Attorney to you in this application has been revoked by the applicant. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

---

Kimberly Grabinet
Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/029,316 | 01/04/2005 | 2873 | 4030 | 200405621-1 | 7 | 58 | 8 |

**CONFIRMATION NO. 9410**

**CORRECTED FILING RECEIPT**

*OC000000016118674*

022879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

Date Mailed: 05/26/2005

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)**

Chien-Hua Chen, Corvallis, OR;
David M. Craig, Albany, OR;
Charles C. Haluzak, Corvallis, OR;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/25/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/029,316**

**Projected Publication Date:** 07/06/2006

**Non-Publication Request:** No

**Early Publication Request:** No

BEST AVAILABLE COPY

**Title**

Micro-optoelectromechanical system packages for a light modulator and methods of making the same

**Preliminary Class**

359

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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FORT COLLINS, CO 80527-2400

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MAR 16 2007

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Vladek P. Kasperchik, et al. | : DECISION ON PETITION |
| Application No. 11/029,324 | : UNDER 37 CFR 1.78(a)(3) |
| Filed: January 4, 2005 | : |
| Attorney Docket No. 200500303-1 | : |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application No. 10/351,188.

The petition is **DISMISSED**.

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

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

The petition does not comply with item (1).

Petitioner failed to submit an Application Data Sheet or an amendment to the first sentence of the specification following the title to include a proper reference to prior-filed application No. 10/351,188. 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.

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.

Before the petition can be granted, petitioner must submit an amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[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.

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

Frances M. Hicks
Lead Petitions Examiner
Office of Petitions

cc: GARY P. OAKESON
THORPE NORTH & WESTERN, LLP
8180 SOUTH 700 EAST, SUITE 200
SANDY, UT 84070

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[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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| | | |
|---|---|---|
| In re Application of | : | |
| Vladek P. Kasperchik, et al | : | |
| Application No. 11/029,324 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 200500303-1 | : | |

This is a decision in response to the renewed petition under 37 CFR 1.78(a)(3), filed April 9, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Gary P. Oakeson 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. A courtesy copy of this decision is being mailed to petitioner. If, Mr. Oakeson desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted.

The petition is **GRANTED**.

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

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) and (iii) of the prior-filed application(s), unless previously submitted;[1]
(2) the surcharge set forth in § 1.17(t); and

[1] Any nonprovisional application or international application designating the United States of America claiming the benefit of one or more prior-filed copending applications or international applications designating the United States of America must contain or be amended to contain a reference (amendment to the first line of the specification following the title or in an application data sheet (ADS) to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) or international application number and international filing date filing date and indicating the relationship of the applications. Cross references to other related applications may be made when appropriate (*see* § 1.14).

> **(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(s) under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application(s). In order for this application to be entitled to the benefit of the prior-filed application(s), all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application(s) should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application(s) noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

It is noted that, while the requisite petition fee had already been paid, the petition fee was charged again in association with the renewed petition. Since the fee was paid in excess of that required, the $1,370 is subject to refund. Any request for refund must included a copy of this decision and be mailed to Mail Stop 16, Director of the U.S. Patent and Trademark Office, P. O. Box 1450, Alexandria, VA 22313-1450 or faxed to the Customer Service Help Desk at (571) 273-6500.

This application is being forwarded to Technology Center Art Unit 1752 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Sherry D. Brinkley

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: GARY P. OAKESON
THORPE NORTH & WESTERN, LLP
8180 SOUTH 700 EAST, SUITE 200
SANDY, UT 84070

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/029,324 | 01/04/2005 | 1752 | 2730 | 200500303-1 | 52 | 2 |

**CONFIRMATION NO. 9414**

**CORRECTED FILING RECEIPT**

*OC000000025613196*

22879
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

Date Mailed: 08/30/2007

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)**

Vladek P. Kasperchik, Corvallis, OR;
Makarand P. Gore, Corvallis, OR;

**Power of Attorney:** The patent practitioners associated with Customer Number **022879**.

**Domestic Priority data as claimed by applicant**

This application is a CIP of 10/351,188 01/24/2003 PAT 6,974,661

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/23/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/029,324**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Color forming compositions with improved marking sensitivity and image contrast and associated methods

**Preliminary Class**

430

## 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).

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

**GRANTED**

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the 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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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/029,337 | 01/06/2005 | Raymond Chan | 403305 | 9234 |

7590 06/03/2008
LEYDIG VOIT & MAYER, LTD
700 THIRTEENTH ST. NW
SUITE 300
WASHINGTON, DC 20005-3960

| EXAMINER |
|---|
| MALANGONE, CARMINE |

| ART UNIT | PAPER NUMBER |
|---|---|
| 4126 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 06/03/2008 | 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.

Nimi Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 06/03/2008 NFARMER
01/07/2005 FFANAEIA 00000023 121216 11029337
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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JUN 17 2009

**OFFICE OF PETITIONS**

MCDERMOTT WILL & EMERY, LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

In re Patent No. 7,535,076 :
Issue Date: May 19, 2009 :
Application No. 11/029,379 : ON PETITION
Filed: January 6, 2005 :
Patentee(s): Makoto Kondou, et. al. :

This is a decision on the request under 37 CFR 3.81[1], filed April 17, 2009, to correct the name of the assignee on the front page of the above-identified patent.

It is noted that the present petition contains an incorrect registration number for Tomoki Tanida. However, the signature and registration number provided on the concurrently filed assignment document is sufficient to establish that petitioner is an attorney registered to practice before the United States Patent and Trademark Office.

Since the present petition is not signed by an attorney of record, in accordance with 37 CFR 1.34(a), the signature of Tomoki Tanida 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 on whose behalf he/she acts.

As authorized, the $130 processing fee for treatment of the instant request has been charged to petitioner's deposit account.

The request is **GRANTED**.

In view of this decision, petitioner may request a Certificate of Correction, pursuant to the provisions of 37 CFR 1.323, and submit the $100 Certificate of Correction fee.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

Andrea Smith
Petitions Examiner
Office of Petitions

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

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SUITE 100
ALEXANDRIA VA 22314

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JAN 30 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Robert Zimmerman, et al. | : | |
| Application No. 11/029,386 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. SPA-002 | : | 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 11, 2008.

The request is **APPROVED**.

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

The request was signed by Howard N. Flaxman on behalf of all attorneys of record who are associated with customer No. 21884. All attorneys/agents associated with the Customer Number 21884 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for

recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

There is an outstanding Office action mailed November 20, 2008 that requires a reply from the applicant.

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

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

cc: ROBERT ZIMMERMAN
67 WENDOVER ROAD
RYE, NY 10580

cc: ADHEZION BIOMEDICAL
C/O KEN SMITH
1645 BRIARWOOD CIRCLE
BETHLEHEM, PA 18015

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AKERMAN SENTERFITT
801 PENNSYLVANIA AVENUE N.W.
SUITE 600
WASHINGTON DC 20004

| | |
|---|---|
| In re Application of | : |
| Grier et al | : |
| Serial No.: 11/029,396 | : PETITION DECISION |
| Filed: January 6, 2005 | : |
| Attorney Docket No.: 71480.00031 | : |

This is a response to the petition under 37 CFR 1.59(b), filed January 8, 2007, to expunge information from the above identified application.

Petitioner requests that documents submitted January 6, 2005, as part of an Information Disclosure Statement 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(h) has been paid.

This is an examined application. The proprietary materials submitted are references to internal invention disclosure papers listed on Form 1449 with other published (non-proprietary) documents. Note M.P.E.P. 724.02:

> 724.02 [R-2] Method of Submitting Trade Secret, Proprietary, and/or Protective Order Materials
> Information which is considered by the party submitting the same to be either trade secret material or proprietary material, and any material subject to a protective order, must be clearly labeled as such and be filed in a sealed, clearly labeled, envelope or container. Each document or item must be clearly labeled as a "Trade Secret" document or item, a "Proprietary" document or item, or as an item or document "Subject To Protective Order." It is essential that the terms "Confidential," "Secret," and "Restricted" or "Restricted Data" not be used when marking these documents or items in order to avoid confusion with national security information documents which are marked with these terms (note also MPEP § 121). ... Of course, the envelope or container, as well as each of the documents or items, must be labeled with complete identifying information for the file to which it is directed, including the Office or area to which the envelope or container is directed. Examples of appropriate labels for such an envelope or container addressed to an application are as follows: (Appropriate changes would be made for papers filed in a reexamination file.)
>
> **

B. "PROPRIETARY MATERIAL NOT OPEN TO PUBLIC. TO BE OPENED ONLY BY EXAMINER OR OTHER AUTHORIZED U.S. PATENT AND TRADEMARK OFFICE EMPLOYEE.
>DO NOT SCAN<
In re Application of
Application No.
Filed:
For: (Title of Invention)
TC Art Unit:
Examiner:
**

The envelope or container must be accompanied by a transmittal letter which also contains the same identifying information as the envelope or container. The transmittal letter must also state that the materials in the envelope or container are considered trade secrets or proprietary, or are subject to a protective order, and are being submitted for consideration under MPEP § 724. A petition under 37 CFR 1.59 and fee therefor (37 CFR 1.17(h)) to expunge the information, if found not to be important to a reasonable examiner in deciding whether to allow the application to issue as a patent, **>should< accompany the envelope or container.

M.P.E.P. states that proprietary information must be submitted as a separate submission and be properly labeled, as detailed above. The information submitted on Form 1449 does not comply with M.P.E.P. 724.02 and will not be expunged from the file.

The petition is **DENIED**.

Should there be any questions with respect to this decision, please contact Marianne C Seidel, by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 0 7 2008

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AKERMAN SENTERFITT
801 PENNSYLVANIA AVENUE N.W.
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|---|---|
| In re Application of | : |
| Grier et al. | : |
| Serial No.: 11/029,396 | : PETITION DECISION |
| Filed: January 6, 2005 | : |
| Attorney Docket No.: 71480.00031 | : |

This is a response to the renewed petitions under 37 CFR 1.59(b), filed February 12, 2008 and March 3, 2008, to expunge information from the above identified application.

Petitioner requests that documents submitted January 6, 2005, as part of an Information Disclosure Statement 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(h) has been paid.

This is an examined application. The proprietary materials submitted are references to internal documents of the Assignee listed on Form 1449. Therefore, these documents are not relevant to the patentability of the instant application. 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.

The petition is **GRANTED**.

Should there be any questions with respect to this decision, please contact Marianne C Seidel, by mail addressed to: Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUN 0 6 2005

**OFFICE OF PETITIONS**

ON PETITION

In re Application of
Takahiro Korenari et al.
Application No. 11/029,405
Filed: January 6, 2005
Attorney's Docket No. Q85651

This is a decision on the petition filed May 23, 2005 under 37 CFR 1.182 in response to the "Notice of Omitted Items" mailed March 23, 2005, and requesting, that the above-identified application be accorded a filing date of May 23, 2005 with pages 7 and 8 of the specification as a part of the original disclosure and that the Notice be withdrawn.

The application was filed on January 6, 2005. However, on March 23, 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 January 6, 2005, and advising applicants that Pages 7 and 8 of the specification appeared to have been omitted.

In response, petitioner asserts that pages 7 and 8 were among the papers filed on January 6, 2005, and submits a "legible" postcard receipt in evidence thereof. The postcard receipt, identifies the application and acknowledges, inter alia, the number of specification, including the abstract to be 19 and bears a United States Patent and Trademark Office date-stamp of January 6, 2005. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

A review of the file reveals receipt on January 6, 2005 of 17 specification pages (including abstract and claims) and the two pages alleged to have been omitted (pages 7 and 8), would equal 19 as claimed.

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

Given the basis for granting the petition, no petition fee is due and thus the petition fee in the amount of $400.00 submitted May 23, 2005 will be credited to deposit account no. 19-4880.

This application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on January 6, 2005 and pages 7 and 8 of the specification submitted May 23, 2005.

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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Keady, Olds & Maier, PLLC
2nd Floor
128 North Pitt Street
Alexandria, VA 22314

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**OFFICE OF PETITIONS**

In re Application of :
Thomas Wood :
Application No. 11/029,410 :
Filed: January 6, 2005 :
Attorney Docket No. IMED-0005-CPA :
For: Nasal Interface Including :
Ventilation Insert :

Decision Refusing to Accord
Status Under 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

The petition does not include:

(1) an acceptable oath or declaration;
(2) proof of proprietary interest; and
(3) proof of irreparable damage.

As to item (1), the copy of the declaration in the file is not entirely legible. Petitioner may wish to mail a new copy, rather than send a copy by facsimile transmission, in order to ensure the Office receives a legible copy of the declaration.

As to item (2), the petition fails to establish Rule 47 applicant has sufficient proprietary interest in the subject matter to justify the filing of the application. In requesting reconsideration, acceptable forms of proof may include:

(a) a copy of an employment agreement between the non-signing inventor and the Rule 47(b) applicant (company) which covers the invention,
(b) a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 47(b) applicant, or
(c) a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 47(b) applicant.

As to item (3), Rule 47 applicant has failed to provide proof of irreparable damage (see MPEP 409.03(g)). A statement by Rule 47 applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

The petition fee of $200 has been charged to petitioner's deposit account.

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

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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2nd Floor
128 North Pitt Street
Alexandria, VA 22314

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OFFICE OF PETITIONS

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| In re Application of | : | |
| Thomas Wood | : | |
| Application No. 11/029,410 | : | Decision Refusing to Accord |
| Filed: January 6, 2005 | : | Status Under 37 CFR 1.47(b) |
| Attorney Docket No. IMED-0005-CPA | : | |
| For: Nasal Interface Including | : | |
| Ventilation Insert | : | |

This is in response to the petition under 37 CFR 1.47(b), filed August 1, 2005.

The petition is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

The declaration filed with the prior petition was not entirely legible and the Office requested a legible copy of the declaration.

The Office has reviewed the declaration. Unfortunately, the Office has noted problems with the declaration. The identity of the individual who signed the declaration on behalf of the assignee is unclear. In addition, the record is unclear as to whether or not the individual has the right to sign the declaration on behalf the assignee. The declaration must be signed by someone with apparent authority to sign on behalf of the assignee *or* the petition must be accompanied by a statement that the person signing the declaration is authorized to act on behalf of the assignee. Individuals with apparent authority include officers of a corporation such as a President, Vice-President, Secretary, or Treasurer. The title or position of the person signing must be stated if the person is signing the oath or declaration on behalf of a corporation.

An attorney or agent may sign the declaration on behalf of the assignee. Proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, *or* the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation.

A new declaration should be submitted.

The petition fee of $200 was charged to petitioner's deposit account for the first petition under 37 CFR 1.47. A fee is not required for a request for reconsideration. The $200 submitted with the instant petition will be credited to petitioner's deposit account.

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

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

By 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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|---|---|---|
| In re Application of | : | |
| Thomas Wood | : | |
| Application No. 11/029,410 | : | Decision According |
| Filed: January 6, 2005 | : | Status Under 37 CFR 1.47(b) |
| Attorney Docket No. IMED-0005-CPA | : | |
| For: Nasal Interface Including | : | |
| Ventilation Insert | : | |

This is in response to the petition under 37 CFR 1.47(b), filed April 20, 2006.

The petition is **granted**.

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

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

The Office incorrectly charged $330 to petitioner's deposit account on April 24, 2006. The $330 has been credited back to the deposit account.

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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AUG 25 2005

ERNEST D. BUFF
ERNEST D. BUFF AND ASSOCIATES, LLC.
231 SOMERVILLE ROAD
BEDMINSTER NJ 07921

| | |
|---|---|
| In re Application of | : |
| Wayne P. Franco | : PETITION TO MAKE SPECIAL |
| Serial No.: 11/029,449 | : |
| Filed: January 5, 2005 | : |
| Attorney Docket No.: 0147-1 CIP3 | |

This is in response to applicant's petition filed August 17, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have 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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Alexandria, VA 22313-1450
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**KED & ASSOCIATES, LLP**
**P.O. BOX 221200**
**CHANTILLY VA 20153-1200**

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|---|---|---|
| In re Application of | : | |
| In Tae Hwang et al | : | |
| Application No. 11/029,487 | : | DECISION DISMISSING PETITION |
| Filed: January 6, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. CIT/K | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 12, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until November 13, 2007. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $810 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. *See* 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be mailed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

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

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

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

| | | |
|---|---|---|
| In re Application of | : | |
| HIROAKI IWAASA ET AL | : | DECISION ON REQUEST TO |
| Application No. 11/029488 | : | PARTICIPATE IN PATENT |
| Filed: January 6, 2005 | : | PROSECUTION HIGHWAY |
| Attorney Docket No. 040894-7158 | : | PILOT PROGRAM AND PETITION |
| | : | TO MAKE SPECIAL UNDER |
| | : | 37 CFR 1.102(d) |

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed June 5, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to John Peng at 571-272-7272.

All other inquiries concerning the examination or status of the application should be directed to Patent Application Information Retrieval (PAIR) system.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

John Peng
TC 2600
Quality Assurance Specialist

UNITED STATES PATENT AND TRADEMARK OFFICE

Letter Withdrawing a Notice of Defective Appeal Brief

SN 10/060644

The Notice of Defective Appeal Brief mailed 06/05/2007 was sent in error and is hereby withdrawn. The application is being forwarded to the examiner of record for appropriate action.

LaShawn Hinton
Appeal Center Specialist
571-272-1584

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P.O. Box 1450
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PEARL COHEN ZEDEK, LLP
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY 12TH FLOOR
NEW YORK, NY 10036

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| In re Application of | : | |
| Hsin-Feng Chien | : | |
| Application No. 11/029,490 | : | ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. P-7580-US | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed on August 10, 2006, to revive the above-identified application.

The application became abandoned for failure to timely respond to the Notice of Allowance and Fee(s) Due mailed February 7, 2006. A Notice of Abandonment was mailed on June 22, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Office also acknowledges receipt of $300 for the publication fee submitted on May 4, 2006.

This application file is being referred to the Office of Publications to be processed into a patent.

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

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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HESLIN ROTHENBERG FARLEY & MESITI PC
5 COLUMBIA CIRCLE
ALBANY, NY 12203

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| | | |
|---|---|---|
| In re Application of | : | |
| John E. Rode | : | DECISION ON PETITION |
| Application No. 11/029,531 | : | TO MAKE SPECIAL UNDER |
| Filed: January 5, 2005 | : | 37 CFR 1.102(c)(1) |
| Attorney Docket No. 0545.043 | : | |

This is a decision on the petition under 37 CFR 1.102(c)(1), filed February 6, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes copies of a driver's license and a passport. 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 3677 for action on the merits commensurate with this decision.

Wan Laymon

Wan Laymon
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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5 COLUMBIA CIRCLE
ALBANY, NY 12203-5160

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**OFFICE OF PETITIONS**

In re Application of :
John E. Rode :
Application No. 11/029,531 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. 0545.043

This is a decision on the petition, filed July 19, 2007 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

**Petitioner is advised that the issue fee paid on April 18, 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 3677 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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

JJGJR.: 03-05

Paper No: __

STEVEN J. STARK
MILLER & MARTIN PLLC
832 GEORGIA AVE./STE. 1000
CHATTANOOGA, TN 37402-2289

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| | | |
|---|---|---|
| In re Application of | : | |
| Bowling, et al. | : | |
| Application No. 11/029,538 | : | ON PETITION |
| Filed: 5 January, 2005 | : | |
| Attorney Docket No. 10326-0001 33,212 CIP | : | |

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 5 January, 2005

The petition is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

## BACKGROUND

The record indicates:

- the application was filed on 5 January, 2005, without, *inter alia*, a fully executed oath or declaration; contemporaneously, Petitioner Steven J. Stark (reg. No. 43,152) filed, *inter alia* an oath/declaration signed by named inventor Bowling, but without the signature of non-signing inventor Phil Adams (Mr. Adams), a petition under 37 C.F.R. §1.47, and Petitioner's narrative, with a copy of a transmittal letter which evidences expressly that the entire application was not sent to Mr. Adams as required by statute, regulation and Office practice.

## ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
>
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

> **§1.63 Oath or declaration.**
>
> (b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:
>
> (1)Identify the application to which it is directed;
>
> (2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and
>
> (3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When on alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

The commentary at MPEP §409.03(d) provides:

**409.03(d) Proof of Unavailability or Refusal**

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does

> not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP § 106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
>
> Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.
>
> Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.
>
> When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only <u>must a copy of the entire application must be sent to the last known address of the non-signing inventor</u> (or the estate representative) with a request that he/she sign the declaration for the patent application–<u>and evidence of that transmittal submitted</u> (a reasonable effort must be made to ascertain a current or last known address)–but also the petition (with fee) must state over the signature and registration number of the Petitioner the last known address (and, if appropriate, evidence of the due diligence effort ascertaining same).

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1]

## CONCLUSION

Therefore, the instant petition hereby is **dismissed**.

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

By mail: Commissioner for Patents[2]
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (703) 872-9306 (IFW Formal Filings)
ATTN.: Office of Petitions

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

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

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

---

[1] See: MPEP 409.03(b).

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: __

STEVEN J. STARK
MILLER & MARTIN PLLC
832 GEORGIA AVE./STE. 1000
CHATTANOOGA, TN 37402-2289

COPY MAILED

MAR 22 2005

OFFICE OF PETITIONS

In re Application of :
Bowling, et al. :
Application No. 11/029,538 : ON PETITION
Filed: 5 January, 2005 :
Attorney Docket No. 10326-0001 33,212 CIP :

This is a decision on the petition under ¶(a) of 37 C.F.R. §1.47, filed on 16 March, 2005

The petition is **GRANTED**.

BACKGROUND

The record indicates:

- the application was filed on 5 January, 2005, without, *inter alia*, a fully executed oath or declaration; contemporaneously, Petitioner Steven J. Stark (reg. No. 43,152) filed, *inter alia* an oath/declaration signed by named inventor Bowling, but without the signature of non-signing inventor Phil Adams (Mr. Adams), a petition under 37 C.F.R. §1.47, and Petitioner's narrative–and the petition was dismissed because, for lack of docket numbers or other identifiers, it was unclear that the materials sent constituted the entirety of the instant application;

- this matter having been clarified by Petitioner, who has demonstrated that Mr. Adams has failed to submit a signed oath/declaration.

Lastly, Petitioner has submitted a declaration in compliance with 37 C.F.R. §1.63 and §1.64.

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

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JJGJR.: 03-05

Paper No: __

PHIL ADAMS
3075 FOXHALL OVERLOOK
ROSWELL, GA 30075

**COPY MAILED**

MAR 2 2 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Bowling, et al. | : | |
| Application No. 11/029,538 | : | COMMUNICATION |
| Filed: 5 January, 2005 | : | |
| Attorney Docket No. 10326-0001 33,212 CIP | : | |

Dear Phil Adams:

You are named as inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. §116 (United States Code), and 37 C.F.R. §1.47,[1] ¶a, Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as inventor.

---

[1] The regulations at 37 C.F.R. §1.47 provide:

**§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**

(a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in §1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

(b) Whenever all of the inventors refuse to execute an application for patent, or cannot be found or reached after diligent effort, a person to whom an inventor has assigned or agreed in writing to assign the invention, or who otherwise shows sufficient proprietary interest in the matter justifying such action, may make application for patent on behalf of and as agent for all the inventors. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, a showing that such action is necessary to preserve the rights of the parties or to prevent irreparable damage, the fee set forth in §1.17(h), and the last known address of all of the inventors. An inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.

© The Office will send notice of the filing of the application to all inventors who have not joined in the application at the address(es) provided in the petition under this section, and publish notice of the filing of the application in the *Official Gazette*. The Office may dispense with this notice provision in a continuation or divisional application, if notice regarding the filing of the prior application was given to the nonsigning inventor(s).

[47 Fed. Reg. 41275, Sept. 17, 1982, effective Oct. 1, 1982; 48 Fed. Reg. 2709, Jan. 20, 1983, effective Feb. 27, 1983; revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997; revised, 65 Fed. Reg. 54604, Sept. 8, 2000, effective Nov. 7, 2000]

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

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or toll-free: (800) 972-6382 (outside the Washington D.C. area).

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

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

Counsel of Record:
STEVEN J. STARK
MILLER & MARTIN PLLC
832 GEORGIA AVE./STE. 1000
CHATTANOOGA, TN 37402-2289

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JUL 21 2008

OFFICE OF PETITIONS

JACKSON WALKER, L.L.P.
112 E. PECAN, SUITE 2400
SAN ANTONIO, TX 78205

| | | |
|---|---|---|
| In re Application of | : | |
| Tsachi Chuck Shavit | : | |
| Application No. 11/029,554 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 0048-0001 | : | |

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 is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 23, 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 24, 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 2188 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
WWW.USPTO.GOV

Paper No. None

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

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MAR 1 5 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of<br>Michael F. Widman<br>Application No. 11/029,562<br>Filed: January 5, 2005<br>Attorney Docket Number: VTN5043NP<br>Title: VISCOSITY CONTROL AND<br>COLORANT CIRCULATION FOR<br>PRINTING LENS MOLDS | :<br>:<br>:<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>UNDER 37 C.F.R. §1.181 |

This is a decision on the petition filed February 3, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Missing Parts (notice), mailed April 6, 2005, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on June 7, 2005. A notice of abandonment was mailed January 5, 2006.

With the present petition, Petitioner has asserted that a response to this communication was submitted on July 7, 2005. Petitioner has submitted a copy of this submission, and it is noted that it contains a certificate of facsimile transmission dated July 7, 2005, along with a declaration and an authorization to charge the associated surcharge to Applicant's Deposit Account, and a request for a four-month extension of time.

Petitioner has requested that the holding of abandonment in the above-identified application be withdrawn. It is clear that a response was timely submitted. Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that a submission was timely submitted.

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

The Office of Initial Patent Examination will be notified of this decision.

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.

It is noted in passing that only a two-month extension of time was required. As such, a two-month extension of time has been charged to Petitioner's Deposit Account, as authorized in the response of July 7, 2005.

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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**KNOBBE MARTENS OLSON & BEAR LLP**
**2040 MAIN STREET**
**FOURTEENTH FLOOR**
**IRVINE, CA 92614**

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OCT 2 6 2006
OFFICE OF PETITIONS

In re Application of :
**KATES** :
Application No. 11/029,567 :
Filed: January 04, 2005 :
Attorney Docket No. KATES.015CP2 :

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed 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 evidence submitted with the instant petition is a declaration signed by Mr. Kates indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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 3644 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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**IP GROUP OF DLA PIPER US LLP**
**ONE LIBERTY PLACE**
**1650 MARKET ST, SUITE 4900**
**PHILADELPHIA, PA 19103**

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| | | |
|---|---|---|
| In re Application of: | : | |
| Devaux et al. | : | |
| Application No. 11/029,574 | : | NOTICE |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. BDM-04-1344 | : | |

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) 272-6059.

The patent file will be forwarded to the Files Repository.

Alicia Kelley
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

| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/029,583 | 01/04/2005 | 2122 | 1800 | IN920040011US1 | 18 | 32 | 4 |

**CONFIRMATION NO. 7622**

**CORRECTED FILING RECEIPT**

*OC000000015424423*

30449
SCHMEISER, OLSEN + WATTS
3 LEAR JET LANE
SUITE 201
LATHAM, NY 12110

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)**

Sachin O. Agrawal, Jalna, INDIA;

**Assignment For Published Patent Application**

International Business Machines Corporation, Armonk, NY

**Power of Attorney:** The patent practitioners associated with Customer Number **30449**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

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

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/029,583**

**Projected Publication Date:** 07/06/2006

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Run-time type conversion

**Preliminary Class**

717

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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**BRIAN R. RAYVE**
**161 MAPLE DRIVE**
**PARK CITY UT 84098**

**COPY MAILED**

JAN 3 1 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Meyers, Frank J. | : | |
| Application No. 11/029,637 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 037-1-002 | : | |

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed December 4, 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 fees due as listed on the Notice mailed February 16, 2005; (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) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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**KNOBBE MARTEN OLSON & BEAR, LLP**
**2040 MAIN STREET, FOURTEENTH FLOOR**
**IRVINE, CA 92614**

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APR 0 2 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ruben E. ALEXANDER, et al | : | |
| Application No. 11/029,639 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. GRALEX.005C1 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed February 2, 2009.

The request is **NOT APPROVED**.

A review of the file record indicates that John K. Etter 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 the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RUBEN E. ALEXANDER
70 SKLAR STREET, SUITE 1005
LADERA RANCH, CA 92694

cc: JOHN K. ETTER
620 NORTH CARROLLTON AVENUE
NEW ORLEANS, LA 70119

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P.O. Box 1450
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**KNOBBE MARTENS OLSON & BEAR LLP**
**2040 MAIN STREET, FOURTEENTH FLOOR**
**IRVINE, CA 92614**

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JUN 23 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ruben E. ALEXANDER, et al | : | |
| Application No. 11/029,639 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. GRALEX.005C1 | : | 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 3, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The 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 Arthur S. Rose on behalf of the attorneys of record associated with Customer No. 20995.

The attorneys of record associated with Customer No. 20995 have been withdrawn.

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

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first 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 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: RUBEN E. ALEXANDER
76 MERCANTILE WAY,
SUITE 212
LADERA RANCH, CA 92694

cc: RUBEN AND GRACIE C. ALEXANDER
70 SKLAR ST., #1005
LADERA RANCH, CA 92694

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 |
|---|---|---|---|
| 11/029,639 | 01/05/2005 | Ruben E. Alexander | GRALEX.005C1 |

**CONFIRMATION NO. 5035**

**POWER OF ATTORNEY NOTICE**

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

*OC000000036607684*

Date Mailed: 06/23/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/03/2009.

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

/dcgoodwyn/

---

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

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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

| | | |
|---|---|---|
| In re Application of | : | |
| Yoshikazu Sakairi, et al. | : | |
| Application No. 11/029,650 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 107312-00005 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 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 there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on January 22, 2008. Furthermore the request cannot be approved because the statement under 3.73(b) is not proper or no statement under 3.73(b) was filed.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: OZEKI INTERNATIONAL PATENT OFFICE
DAIWA BUILDING 2F, 3-2-6, KUMANONISHI
SAKAI-SHI, OSAKA 590
JAPAN

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SCHEIN & CAI LLP
111 W. ST. JOHN ST.
SUITE 1250
SAN JOSE, CA 95113

**MAILED**

MAR 16 2009

**OFFICE OF PETITIONS**

In re Application of :
Kai Liu et al :
Application No. 11/029,653 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. AOS005 :

This is a decision on the petition, filed February 12, 2009 under 37 CFR 1.137(b) 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** final agency action within the meaning of 5 U.S.C. § 704.

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

The petition does not satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the full Issue Fee payment was not received. Office record show a partial payment of $720 was received on December 23, 2008. Effective October 2, 2008, the Issue Fee (Small Entity) changed to $755 which leaves a balance of $35. Accordingly, this petition can not be revive until the $35 Issue Fee balance is received.

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 facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

SCHEIN & CAI LLP
JAMES CAI
111 W. ST. JOHN ST., SUITE 1250
SAN JOSE, CA 95113

In re Application of
Kai Liu et al
Application No. 11/029,653
Filed: January 5, 2005
Attorney Docket No. AOS005

ON PETITION

This is a decision on the renewed petition filed April 23, 2009 under 37 CFR 1.137(b), to revive the above-identified application and a request for acceptance of a fee deficiency submission under 37 CFR 1.28.

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

The above-identified application became abandoned for failure to submit the Issue fee and Publication Fee in a timely manner in reply to the Notice of Allowance mailed September 17, 2008, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on December 18, 2008.

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

This is also 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**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210. This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

2009 APR 28 PM 3:45

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APR 23 2009

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Kai Liu
Appl. No.: 11/029,653 GPAU.: 2823
Filed: 01/05/2005 Examiner: Su Kim
Docket No.: AOS005 Conf. No.: 5315
For: DUAL FLAT NON-LEADED SEMICONDUCTOR PACKAGE

Adjustment date: 07/06/2009 CKHLOK
12/23/2008 SSESHE2 00000047 11029653
02 FC:1606 -720.00 OP

**RENEWED PETITION UNDER 37 CFR 1.137(b)**

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Fax: 571-273-8300

07/06/2009 CKHLOK 00000001 11029653
01 FC:1501 1510.00 OP

Sir:

The above-identified application became abandoned for failure to timely pay the Issue Fee.

**APPLICANT HEREBY RENEWS THE PETITION FOR REVIVAL OF THIS APPLICATION**

1. Petition Fee
   The petition fee is not required as this is a renewed petition.

2. Reply and/or fee
   The difference between the issue fee and publication fee due $1,810.00 minus the $1,020.00 previously paid. Applicant claims large entity status. See 37 CFR 1.27.

3. Terminal disclaimer with disclaimer fee
   Since this utility application was filed on or after June 8, 1995, no terminal disclaimer is required.

04/29/2009 DALLEN 00000009 11029653
01 FC:1461 790.00 OP

Adjustment date: 07/06/2009 CKHLOK
04/29/2009 DALLEN 00000009 11029653
01 FC:1461 -790.00 OP



PAGE 2/8 * RCVD AT 4/23/2009 9:24:28 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/25 * DNIS:2738300 * CSID:4084360758 * DURATION (mm-ss):02-50

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APR 23 2009

In the instant matter, Applicants submit the outstanding portion of the issue fee due in the amount of $790.00. It is submitted that this amount is much greater than that alleged to be due in the NOTICE, $35.00. However, this results from Applicants' desire to pay the large entity fee, because Applicants now believe that this is part of the outstanding fees due when the fees were originally paid. To that end, a Petition pursuant to 37 CFR section 1.28 is filed concurrently herewith in support of the desire to pay the large entity fee and claim large entity status. Thus, it is contended that the fee due in response to the NOA was $1,810.00, of which $1,020.00 was previously paid.

It is submitted that the proposed response clearly places the application in condition for issue. Applicant respectfully requests that the holding of abandonment be withdrawn and that the application continue to issuance in due course.

The USPTO is also authorized to charge any deficiencies in payment and/or credit any overpayment of fees for the instant application to deposit account 504915.

CERTIFICATE OF TRANSMISSION
I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office, facsimile number (571) 273-8300.

Signed:
Typed Name: James Cai
Date: 4/23/2009

Respectfully Submitted,

James (Jingming) Cai
Reg. No. 44,579
Law Office Schein & Cai, LLP



PAGE 4/8 * RCVD AT 4/23/2009 9:24:28 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/25 * DNIS:2738300 * CSID:4084360758 * DURATION (mm-ss):02-50

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SCHEIN & CAI LLP
JAMES CAI
111 W. ST. JOHN ST.
SUITE 1250
SAN JOSE, CA 95113

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AUG 10 2009

OFFICE OF PETITIONS

In re Application of :
Kai Liu et al :
Application No. 11/029,653 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. AOS005

This is a decision on the petition, filed August 7, 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 April 23, 2009 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.**[1]

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

This matter is being referred to Technology Center AU 2823 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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CHEN & HEID LLP
2033 GATEWAY PLACE
SUITE 400
SAN JOSE CA 95110

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| | | |
|---|---|---|
| In re Application of | : | |
| Yong-Il Kim | : | DECISION ON PETITION |
| Application No. 11/029,658 | : | |
| Filed: January 6, 2005 | : | |
| Atty Docket No. 6192.0500.US | : | |

This is a decision on the PETITION UNDER 37 CFR 1.137(a) TO REVIVE AN UNAVOIDABLY ABANDONED APPLICATION, filed April 15, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 2, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply was received and no extension of time was obtained. The application became abandoned on November 3, 2007. A courtesy Notice of Abandonment was mailed on March 18, 2008.

Petitioner maintains that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unavoidable. Petitioner asserts the abandonment was unavoidable because despite the filing of a revocation and new power of attorney, including a change of address, by the assignee on November 9, 2006, the Office action was mailed to the former attorneys of record and thus, not received by the current attorneys of record.

The petition includes the required reply in the form of an amendment and payment of the petition fee set forth in 37 CFR § 1.17(l). No terminal disclaimer is required.

Furthermore, the facts and circumstances of the abandonment as set forth on petition have been considered, and it is concluded that petitioner has met his burden of establishing that the entire delay from the due date for the reply until the filing of a grantable petition was unavoidable. The record confirms that the revocation of power of attorney and change of correspondence address are of record with a date of receipt of November 9, 2006. The power of attorney and change of correspondence address is acceptable as ownership is established by reference to a recorded assignment and the authority of the signer of the request is proper based on his presumed authority as Vice-President, as well as, the prior filing in the application of a 3.73(b) stating that he has authority (See 3.73(b) statement filed April 7, 2005). However, the record reveals that the power of attorney and change of correspondence address was not made of record and the non-final Office action was mailed to an incorrect address.

The power of attorney and change of correspondence address to customer Number 32605 filed November 9, 2006 (and resubmitted on April 15, 2008) has now been made of record.

Technology Center AU 2871 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment submitted on petition filed April 15, 2008.

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

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Paper No.

MORGAN & FINNEGAN, L.L.P.
3 WORLD FINANCIAL CENTER
NEW YORK NY 10281-2101

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JAN 08 2008

OFFICE OF PETITIONS

In re Application of :
Toshinobu Tokita :
Application No. 11/029,674 :
Filed: January 4, 2005 : DECISION ON PETITION
Attorney Docket No. 1232-5578 : UNDER 37 C.F.R. § 1.181(A)
Title: EXPOSURE APPARATUS AND :
DEVICE MANUFACTURING METHOD :

This is a decision on the petition under 37 C.F.R. § 1.181(a) to withdraw the holding of abandonment, filed on November 13, 2007.

BACKGROUND

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R § 1.113 in a timely manner to the final Office action mailed January 9, 2007, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time were requested. Accordingly, the above-identified application became abandoned on April 10, 2007. A notice of abandonment was mailed on September 4, 2007.

With the present petition, Petitioner has alleged that the communication was not received, and has included a copy of the docket report.

CONCLUSION

Petitioner has met the requirements of Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the mailing

was not received, that he has searched the file jacket and the docket record, and he has included a copy of the latter.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was not received.

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

The Technology Center will be notified of this decision.

- The Technology Center's support staff will re-mail the final Office action of January 9, 2007, and will set a new period for response.
- Moreover, the Technology Center's support staff will notify the Examiner of this decision, so that the after-final amendment that was received concurrently with the present petition can be processed.

It is noted in passing that it is clear from rules 37 C.F.R. §§ 1.116 and 1.135 that abandonment of an application is risked when the applicant proffers an amendment after the mailing of a final Office action. The rule clearly indicates that the mere filing of an amendment does not relieve applicant of the duty to take appropriate action to save the application from abandonment. If steps are not taken after final to maintain pendency prior to the expiration of the maximum extendable period for reply, the application will go abandoned. Put another way, the submission of an after final amendment which fails to place the application in condition for allowance will result in the abandonment of the application, unless one of the following four items is filed prior to the maximum extendable period for reply:

- a subsequent amendment which places the application in condition for allowance:
- a Notice of Appeal:
- a Request for a Continuation Application pursuant to 37 C.F.R. § 1.53(b), if applicable:
- a Request for Continued Examination pursuant to 37 C.F.R. § 1.114, and;
- a Terminal Disclaimer, if applicable.

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

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RYNDAK & SURI LLP
200 W MADISON STREET
SUITE 2100
CHICAGO IL 60602

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FEB 23 2006

**OFFICE OF PETITIONS**

In re Application of :
John D. Johnson et al. :
Application No. 11/029,680 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket Number: 40205-10014 :

This is a decision on the petition under 37 CFR 1.137(b),[1] filed January 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned April 26, 2005, for failure to timely reply to the Notice to File Corrected Application Papers mailed on February 25, 2005, which set a two (2) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained prior to the abandonment. Accordingly, a Notice of Abandonment was mailed October 28, 2005.

---

[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)).

Receipt of the replacement drawings in compliance with 37 CFR 1.84 and 37 CFR 1.121 is acknowledged as well as an abstract as required by 37 CFR 1.72(b).

The application is being forwarded to the Office of Initial Patent Examination for further processing.

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
United States Patent and Trademark Office
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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

| | | |
|---|---|---|
| **Applicant** | : Uwe Rockenfeller | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7648757 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/19/2010 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/029,685 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1050** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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AGOURON PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

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**OFFICE OF PETITIONS**

In re Application of :
Ennio Ongini, Valerio Chiroli, :
Francesca Benedini and Piero Del Soldato :
Application No. 11/029,698 :
Filed: January 5, 2005 :
Title: PROSTAGLANDIN DERIVATIVES :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed August 19, 2005 and supplemented on September 1, 2005.

The petition is dismissed.

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

The above-identified application was filed on January 5, 2005 without an executed oath or declaration and naming Ennio Ongini, Valerio Chiroli, Francesca Benedini and Piero Del Soldato as joint inventors.

Accordingly, on February 22, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, and a surcharge for its late filing.

In response, on August 19, 2005, the instant petition was filed with a four (4) month extension of time.

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;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks items (1), as set forth above.

As to item (1), a number of documents submitted in support of the instant petition appear to be in Italian. These documents must be translated into English and resubmitted for review of their content.

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AGOURON PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

**COPY MAILED**

OCT 13 2005

**OFFICE OF PETITIONS**

In re Application of
Ennio Ongini, Valerio Chiroli,
Francesca Benedini and Piero Del Soldato
Application No. 11/029,698
Filed: January 5, 2005
For: PROSTAGLANDIN DERIVATIVES

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 October 4, 2005.

The petition is **granted**.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application.

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

Please note, it is assumed that the last known address of the non-signing inventor is the address provided in the ADS.

The file is being forwarded to Technology Center 1600 for examination *in due course*.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

DR. PIERO DEL SOLDATO
NO. 22, VIA ENRICO TOTI
20052 – MONZA
ITALY

COPY MAILED

OCT 13 2005

OFFICE OF PETITIONS

In re Application of
Ennio Ongini, Valerio Chiroli,
Francesca Benedini and Piero Del Soldato
Application No. 11/029,698
Filed: January 5, 2005
For: PROSTAGLANDIN DERIVATIVES

Dear DR. PIERO DEL SOLDATO:

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
Office of the Deputy Commissioner
for Patent Examination Policy

AGOURON PHARMACEUTICALS, INC.
10777 SCIENCE CENTER DRIVE
SAN DIEGO, CA 92121

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

JOSEPH SWAN, A PROFESSIONAL CORPORATION
1334 PARKVIEW AVENUE, SUITE100
MANHATTAN BEACH, CA 90266

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Yuli You | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7630902 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/08/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,722 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1375** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

14 APR 2005

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

| | | |
|---|---|---|
| In re Application of COLTHURST | : | |
| U.S. Application No.: 11/029,748 | : | |
| PCT Application No.: PCT/GB03/02649 | : | DECISION |
| Int. Filing Date: 20 June 2003 | : | |
| Priority Date Claimed: 05 July 2002 | : | |
| Attorney Docket No.: 8870 | : | |
| For: RAZOR HEAD | : | |

This is in response to applicant's "Petition Under CFR § 1.181 to Treat an Application as a Submission to Enter the National Stage Under 35 U.S.C. 371" filed 11 April 2005.

## BACKGROUND

On 20 June 2003, applicant filed international application PCT/GB03/02649, which claimed priority of an earlier United Kingdom application filed 05 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 January 2004. The thirty-month period for paying the basic national fee in the United States expired on 05 January 2005.

On 29 December 2004, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 11 April 2005, applicant filed the present petition under 37 CFR 1.181.

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in relevant part:

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111. . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. (Emphasis added.)

Form PTO/SB/05 filed 29 December 2004 states that the application is being submitted under 37 CFR 1.53(b). MPEP 201.06(c) states in relevant part:

> 37 CFR 1.53(b) is the section under which all applications are filed EXCEPT: (A) an application resulting from entry of an international application into the national stage under 35 U.S.C. 371 and 37 CFR 1.495. . . . Applications submitted under 37 CFR 1.53(b), as well as CPAs submitted under 37 CFR 1.53(d), are applications filed under 35 U.S.C. 111(a).

Although the national stage transmittal letter (Form PTO-1390) filed on 29 December 2004 identified the application as a national stage application being filed under 35 U.S.C. 371, the concurrent submission of the utility application transmittal letter (Form PTO/SB/05) is inconsistent with and would have contradicted any desire expressed in any papers that might have been filed to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, pursuant to MPEP 201.06(c), the papers filed on 29 December 2004 were properly accepted as a filing under 35 U.S.C. 111(a).

Because application number 11/029,748 and international application PCT/GB03/02649 were copending on 29 December 2004, applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application PCT/GB03/02649 for the common subject matter. In order to obtain benefit of the earlier international application, application number 11/029,748 must contain or be amended to contain a specific reference to the parent international application. That is, application number 11/029,748 would have to be amended to reflect that it is a continuation of international application PCT/GB03/02649.

Applicant is reminded that in order to perfect the claim for foreign priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

2 3 MAR 2007

UNITED STATES PATENT AND TRADEMARK OFFICE

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ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

| | | |
|---|---|---|
| In re Application of | : | |
| COLTHURST | : | |
| Application No.: 11/029,748 | : | DECISION ON PETITION |
| Filing Date: December 29, 2004 | : | UNDER 37 CFR 1.78 |
| Attorney Docket No.: 8870 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed September 6, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of a prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a late claim for 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 37 CFR 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 prior-filed application on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior-filed nonprovisional application and the prior-filed foreign application. An incorporation by reference statement added after an application's filing date is not effective because no new

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

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) 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 Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

14 APR 2005

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MAY 10 2007
PATENT & TRADEMARK OFFICE

REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA GABRIEL, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

| | | |
|---|---|---|
| In re Application of COLTHURST | : | |
| U.S. Application No.: 11/029,748 | : | |
| PCT Application No.: PCT/GB03/02649 | : | DECISION |
| Int. Filing Date: 20 June 2003 | : | |
| Priority Date Claimed: 05 July 2002 | : | |
| Attorney Docket No.: 8870 | : | |
| For: RAZOR HEAD | : | |

This is in response to applicant's "Petition Under CFR § 1.181 to Treat an Application as a Submission to Enter the National Stage Under 35 U.S.C. 371" filed 11 April 2005.

## BACKGROUND

On 20 June 2003, applicant filed international application PCT/GB03/02649, which claimed priority of an earlier United Kingdom application filed 05 July 2002. A copy of the international application was communicated to the USPTO from the International Bureau on 15 January 2004. The thirty-month period for paying the basic national fee in the United States expired on 05 January 2005.

On 29 December 2004, applicant filed purported national stage papers in the United States Designated/Elected Office (DO/EO/US).

On 11 April 2005, applicant filed the present petition under 37 CFR 1.181.

## DISCUSSION

Any intended filing of an international application as a national stage application must clearly and unambiguously be identified as such and must satisfy all of the conditions set forth in 35 U.S.C. 371(c). The official USPTO Notice published in the Official Gazette at 1077 OG 13 entitled "Minimum Requirements for Acceptance of Applications Under 35 U.S.C. 371 (the National Stage of PCT)" states, in relevant part:

DOCKETED 4/20/05

> The Patent and Trademark Office is continuing to receive application papers which do not clearly identify whether the papers (1) are being submitted to enter the national stage of the Patent Cooperation Treaty (PCT) under 35 U.S.C. 371 or (2) are being filed as a regular national application under 35 U.S.C. 111. . . .
>
> If there are any conflicting instructions as to which sections of the statute (371 or 111) is intended the application will be accepted under 35 U.S.C. 111. (Emphasis added.)

Form PTO/SB/05 filed 29 December 2004 states that the application is being submitted under 37 CFR 1.53(b). MPEP 201.06(c) states in relevant part:

> 37 CFR 1.53(b) is the section under which all applications are filed EXCEPT: (A) an application resulting from entry of an international application into the national stage under 35 U.S.C. 371 and 37 CFR 1.495. . . . Applications submitted under 37 CFR 1.53(b), as well as CPAs submitted under 37 CFR 1.53(d), are applications filed under 35 U.S.C. 111(a).

Although the national stage transmittal letter (Form PTO-1390) filed on 29 December 2004 identified the application as a national stage application being filed under 35 U.S.C. 371, the concurrent submission of the utility application transmittal letter (Form PTO/SB/05) is inconsistent with and would have contradicted any desire expressed in any papers that might have been filed to enter the national stage of the PCT under 35 U.S.C. 371. Accordingly, pursuant to MPEP 201.06(c), the papers filed on 29 December 2004 were properly accepted as a filing under 35 U.S.C. 111(a).

Because application number 11/029,748 and international application PCT/GB03/02649 were copending on 29 December 2004, applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application PCT/GB03/02649 for the common subject matter. In order to obtain benefit of the earlier international application, application number 11/029,748 must contain or be amended to contain a specific reference to the parent international application. That is, application number 11/029,748 would have to be amended to reflect that it is a continuation of international application PCT/GB03/02649.

Applicant is reminded that in order to perfect the claim for foreign priority under 35 U.S.C. 119, applicant must submit a certified copy of the priority document. The certified copy of the priority document submitted to the International Bureau cannot be relied upon to perfect the claim for priority. See MPEP §1896.

## CONCLUSION

For the reasons above, the petition under 37 CFR 1.181 is DISMISSED without prejudice.

If reconsideration on the merits of the petition is desired, a proper response must be filed within TWO (2) MONTHS from the mail date of this decision. Extensions of time are

available under 37 CFR 1.136(a). Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.181".

Please direct further correspondence with respect to this matter to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Bryan Tung
PCT Legal Examiner
PCT Legal Office

Telephone: 571-272-3303
Facsimile: 571-273-0459

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ATTN: LINDA KASULKE, DOCKET COORDINATOR
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MILWAUKEE, WI 53202

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JUN 08 2007

**OFFICE OF PETITIONS**

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| In re Application of | : | |
| COLTHURST | : | |
| Application No.: 11/029,748 | : | DECISION ON PETITION |
| Filing Date: December 29, 2004 | : | UNDER 37 CFR 1.78 |
| Attorney Docket No.: 8870 | : | |

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 10, 2007, to accept an unintentionally delayed claim under 35 U.S.C. 120 and 365(c) for the benefit of a prior-filed nonprovisional application set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

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

A petition for acceptance of a late claim for 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 37 CFR 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 complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.***

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

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. 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 3724 for appropriate action on the amendment filed May 10, 2007, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Boris Milef
Legal Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

| APPL NO. | FILING OR 371(c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|
| 11/029,748 | 12/29/2004 | 3724 | 565 | 8870 | 20 | 3 |

**CONFIRMATION NO. 3460**

**CORRECTED FILING RECEIPT**

*OC000000024274179*

22922
REINHART BOERNER VAN DEUREN S.C.
ATTN: LINDA KASULKE, DOCKET COORDINATOR
1000 NORTH WATER STREET
SUITE 2100
MILWAUKEE, WI 53202

Date Mailed: 06/07/2007

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)**

James Richard Colthurst, Hungerford, UNITED KINGDOM;

**Power of Attorney:** The patent practitioners associated with Customer Number **22922**.

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/GB03/02649 06/20/2003

**Foreign Applications**

UNITED KINGDOM 0215624.8 07/05/2002

**If Required, Foreign Filing License Granted:** 02/11/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/029,748**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Razor head

**Preliminary Class**

030

## 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).

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

**GRANTED**

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

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

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

**NOT GRANTED**

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

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

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DEC 18 2008

| | | |
|---|---|---|
| In re Patent No. 7,372,000 | : | |
| Issued: May 13, 2008 | : | |
| Application No. 11/029,754 | : | PATENT TERM ADJUSTMENT |
| Filed: January 5, 2005 | : | |
| Dkt. No.: 16725-013001/ | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(d)," filed July 14, 2008.

The application for patent term adjustment ("PTA") under 37 CFR 1.705(d) is GRANTED.

The above-identified application matured into U.S. Patent No. 7,372,000 on May 13, 2008. The instant request for reconsideration was timely filed. The patent issued with a PTA of 309 days. Patentee argues that the reduction of 47 days under 37 CFR 1.704(c)(10) in connection with the "Response to Notice of Allowance," filed March 28, 2008 is inappropriate.

Patentee's arguments have been carefully considered and found convincing.

The submission of 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 is not deemed a failure to engage in reasonable efforts to conclude prosecution within the meaning of 37 CFR 1.704(c)(10). *See*, MPEP 2732. *See, also, 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).

Accordingly, at the time of issuance, the application was entitled to a patent term adjustment of 356 days, as argued by patentee.

The Office hereby acknowledges receipt of the required PTA application fee of $200.00.

This application file will be forwarded to the Certificate of Corrections branch for issuance of a certificate of correction to indicate that the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 356 days.

Telephone inquiries specific to this matter may be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery A Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Draft Certificate of Correction

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 14:19:14

| PTA Calculations for Application: 11/029754 | | | |
|---|---|---|---|
| Application Filing Date: | 01/05/2005 | PTO Delay (PTO): | 388 |
| Issue Date of Patent: | 05/13/2008 | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 79 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 356 |
| PTO Delay Adjustment: | 47 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 58 | 12/16/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | 94 | | |
| 57 | 12/16/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 47 | |
| 53 | 05/13/2008 | PATENT ISSUE DATE USED IN PTA CALCULATION | | | |
| 52 | 04/03/2008 | EXPORT TO FINAL DATA CAPTURE | | | |
| 51 | 04/02/2008 | DISPATCH TO FDC | | | |
| 50 | 03/28/2008 | MISCELLANEOUS INCOMING LETTER | | 47 | |
| 49 | 04/01/2008 | APPLICATION IS CONSIDERED READY FOR ISSUE | | | |
| 48 | 03/28/2008 | ISSUE FEE PAYMENT VERIFIED | | | |
| 47 | 03/28/2008 | ISSUE FEE PAYMENT RECEIVED | | | |
| 46 | 01/04/2008 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 45 | 12/31/2007 | MAIL NOTICE OF ALLOWANCE | | | |
| 44 | 12/31/2007 | MAIL EXAMINER'S AMENDMENT | | | |
| 43 | 12/28/2007 | ISSUE REVISION COMPLETED | | | |
| 42 | 12/28/2007 | DOCUMENT VERIFICATION | | | |
| 41 | 12/28/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 40 | 12/26/2007 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 39 | 12/26/2007 | NOTICE OF ALLOWABILITY | | | |
| 38 | 12/26/2007 | DATE FORWARDED TO EXAMINER | | | |
| 37 | 11/26/2007 | AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE | | | |
| 36 | 12/26/2007 | DATE FORWARDED TO EXAMINER | | | |
| 35 | 11/26/2007 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 34 | 12/26/2007 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |

| | | | | | |
|---|---|---|---|---|---|
| 33 | 11/26/2007 | AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312) | | | |
| 32 | 11/26/2007 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |
| 31 | 10/01/2007 | FINISHED INITIAL DATA CAPTURE | | | |
| 30 | 08/31/2007 | EXPORT TO INITIAL DATA CAPTURE | | | |
| 29 | 08/27/2007 | MAIL NOTICE OF ALLOWANCE | | | |
| 28 | 08/22/2007 | ISSUE REVISION COMPLETED | | | |
| 27 | 08/22/2007 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 26 | 08/21/2007 | DOCUMENT VERIFICATION | | | |
| 25 | 08/20/2007 | NOTICE OF ALLOWABILITY | | | |
| 24 | 08/06/2007 | DATE FORWARDED TO EXAMINER | | | |
| 23 | 07/30/2007 | RESPONSE AFTER NON-FINAL ACTION | | 32 | 21 |
| 22 | 07/30/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 21 | 03/28/2007 | MAIL NON-FINAL REJECTION | 388 | | -1 |
| 20 | 03/19/2007 | NON-FINAL REJECTION | | | |
| 19 | 07/01/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 18 | 08/24/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 17 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 16 | 02/01/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15.7 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 15 | 12/04/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 12/01/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 13 | 08/24/2006 | REFERENCE CAPTURE ON IDS | | | |
| 12.7 | 08/24/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 12 | 08/24/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 11 | 05/16/2006 | CASE CLASSIFIED BY OIPE | | | |
| 10 | 07/01/2005 | REFERENCE CAPTURE ON IDS | | | |
| 9.7 | 07/01/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 9 | 07/01/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 8 | 02/19/2005 | APPLICATION RETURN FROM OIPE | | | |
| 7 | 02/19/2005 | APPLICATION RETURN TO OIPE | | | |
| 6 | 02/19/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 5 | 02/22/2005 | APPLICATION IS NOW COMPLETE | | | |
| 4 | 02/08/2005 | CLEARED BY OIPE CSR | | | |
| 3 | 02/08/2005 | CASE CLASSIFIED BY OIPE | | | |
| 2 | 02/05/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 01/05/2005 | 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

UNITED STATES PATENT AND TRADEMARK OFFICE

# CERTIFICATE OF CORRECTION

| | | |
|---|---|---|
| PATENT | : | 7,372,000 B2 |
| DATED | : | May 13, 2008 |
| INVENTOR(S) | : | Stockley |

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 309 days

Delete the phrase "by 309 days" and insert – by 356 days--

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Margaret A. Pepper
Intellectual Property Law
IBM Corporation, Dept. 18G
Building 300-482, 2070 Route 52
Hopewell Junction, NY 12533

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Steven A. Scheer | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7632631 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,813 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **952** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Mailed: 9-4-07

| | | |
|---|---|---|
| In re application of | : | |
| VAGHELA, et al. | : | DECISION ON |
| Serial No. 11/029,814 | : | PETITION |
| Filed: January 4, 2005 | : | |
| For: AERATED FROZEN PRODUCTS | : | |

This is a response to applicant's petition under 37 C.F.R. 1.102(d) filed March 30, 2006. The Office regrets the delay in responding to applicant's petition.

An application may be granted special status provided that applicant complies with each of the following items:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement if the claims in the corresponding foreign application are of the same or similar scope to the claims in the U.S. application for which special status is requested;

(D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

DECISION

Applicant has complied with the conditions set forth above.

The Petition is **Granted**.

Gregory Mills
Quality Assurance Specialist
Technology Center 1700

WINSTON & STRAWN LLP
PATENT DEPARTMENT
1700 K STREET, N.W.
WASHINGTON DC 20006

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : 6/13/07

TO SPE OF : ART UNIT 1712

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/029819 Patent No: 7199813B2

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

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

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

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

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

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**

**703-308-9390 ext. 113**

**Thank You For Your Assistance**

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

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

**Comments:** _____

RANDY GULAKOWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700

**SPE** — 1712 **Art Unit**

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Bourdev et al. | : | DECISION ON APPLICATION |
| Application No. 11/029,822 | : | FOR |
| Filed: January 4, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 07844-342002 | /: | |
| P316 C1 | : | |

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 CFR §1.705(B)," filed April 3, 2007. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from zero (0) days to twenty-five (25) days, including 25 days of Office delay and 0 days of applicant delay.

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 TWENTY-FIVE **(25)** days, including 25 days of Office delay and 28 days of applicant delay. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On January 3, 2007, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 0 days. On April 3, 2007, applicants timely submitted the instant application for patent term adjustment[1]. Applicants state that a Request for Continued

[1] PALM records indicate that the Issue Payment was filed on April 3, 2007.

Examination (RCE) in response to the May 12, 2006 final Office action was submitted on August 9, 2006, not December 7, 2006, and thus, there should be no reduction in association with this filing. Furthermore, applicants argue that a period of adjustment of 25 days should be entered for the Office taking until January 3, 2007 to mail a notice of allowance in response to the RCE.

The record supports a conclusion that the patent issuing from this application is not subject to a terminal disclaimer.

With respect to the period of adjustment for Office delay, applicants are correct. A review of the record reveals that the RCE was resubmitted on December 7, 2006, with a *prima facie* showing in the form of an auto-reply facsimile that the response was originally received in the USPTO on August 9, 2006. According, pursuant to 37 CFR 1.702(a)(2) and 1.703(a)(3), a period of adjustment of 25 days is being entered for the Office taking more than four months, until January 3, 2007, to mail a response to the reply in compliance with § 1.113(c) filed August 9, 2006.

Moreover, applicants are correct with respect to the period of reduction pursuant to 37 CFR 1.704(b). As the amendment filed July 12, 2006, was not in compliance with § 1.113(c), the period for reply to the final rejection mailed May 12, 2006, continued to run. See Advisory Action mailed July 25, 2006. The proper reply, an RCE, was received in the Office on August 9, 2006. This was within the three-month period set in 37 CFR 1.704(b). Accordingly, no reduction for applicant delay is warranted.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is 25 days.

Receipt of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Patent Publication for issuance of the patent. The patent term adjustment indicated on the patent will include any additional patent term adjustment accrued for Office delay in issuing the patent after payment of the issue fee and all outstanding requirements having been met.

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 PAIR Screen

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OFFICE OF PETITIONS

In re Application of :
Tomoaki Adachi, et al. :
Application No. 11/029,827 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. *AGA-105US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 26, 2008.

The petition is **GRANTED**.

The application became abandoned for failure s to timely pay the issue and publication fees on or before January 15, 2008, as required by the October 15, 2007 Notice of Allowance and Fee(s) Due. The issue and publication fees were subsequently paid on January 18, 2008. On February 26, 2008, the present petition was filed.

The petition is found to satisfy the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the required reply, (2) the petition fee of $770, and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK, NY 10022-2585

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| | | |
|---|---|---|
| In re Application of | : | |
| John Christopher Mallick et al | : | |
| Application No. 11/029,829 | : | DECISION ON PETITION |
| Filed: January 4, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. | : | 37 CFR 1.102(d) |
| | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed August 9, 2006 and supplemented on August 14, 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 3692 for action on the merits commensurate with this decision.

Denise Pothier
Petitions Examiner
Office of Petitions

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IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Robert R. Friedlander | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7580922 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,840 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **428** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Paper No.

William S. Myskowski
1016 Baker Road
Sinking Spring PA 19608

COPY MAILED

NOV 15 2007

OFFICE OF PETITIONS

In re Application of :
William Myskowski : DECISION ON PETITION
Application No. 11/029,858 :
Filed: January 6, 2005 :
Title: FASTENER DRIVER :

This is a decision on the "Petition to Withdraw Holding of Abandonment" filed July 13, 2007.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed August 25, 2006. This Office action set a shortened statutory period of the longer of three months for reply, with extensions of time obtainable under § 1.136(a). Pursuant to a previously filed extension of time for response within the third month, on February 23, 2007, applicant timely filed a reply. However, the examiner determined that the reply did not place the application in condition for allowance. (See Advisory Action mailed March 22, 2007). The statutory period for reply having expired on February 25, 2007, with no proper reply filed and no further extension of time obtainable, the above-identified application became abandoned on February 26, 2007. A courtesy Notice of Abandonment was mailed on June 5, 2007.

In response, applicant timely filed the instant petition. Applicant asserts that withdrawal of the holding of abandonment is warranted because 1) the invention is distinct and unique and 2) problems in the U.S. Patent Office have caused extensive delays. Applicant further asserts that a timely reply to the March 22, 2007 Advisory Action was delivered to the USPTO on April 24, 2007.

Applicant's arguments have been considered, and the application record has been carefully reviewed, and it is determined that withdrawal of the holding of abandonment is not warranted. The application properly became abandoned for failure to file a timely and proper response to the final Office action mailed August 25, 2006.

It is noted that the Notice of Abandonment should have stated that the application was abandoned for failure to timely file a proper reply to the Office letter mailed August 25, 2006. This mistake in the courtesy Notice does not affect the status of the application.

It is further noted that a response is of record with a date of receipt of April 24, 2007. However, the examiner could not consider this response, as it was not timely filed. The Advisory Action mailed March 22, 2007 did not set a new period for response. Rather, the Advisory Action stated that:

> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

The statutory period for reply ended on February 25, 2007, the date six months from the mailing date of the final rejection. Thus, the response filed outside of this period, on April 24, 2007, was untimely filed.

Moreover, the examiner had no authority to consider the April 24, 2007 paper. Neither the examiner (nor anyone else at the USPTO) has authority to grant an extension once the period for reply has expired. The law, 35 USC 133, provides that

> 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.
>
> (Amended Nov. 29, 1999, Public Law 106-113, sec. 1000(a)(9), 113 Stat. 1501A-582 (S. 1948 sec. 4732(a)(10)(A)).)

Thus, by operation of law, the application became abandoned at the end of the statutory period. Further, pursuant to this law and as stated in MPEP 710.02(e):

> It should be very carefully noted that neither the primary examiner nor the Director of the USPTO has authority to extend the shortened statutory period unless a petition for the extension is filed. While the shortened period may be extended within the limits of the statutory 6 months period, no extension can operate to extend the time beyond the 6 months.

Likewise, by law, pursuant to 35 USC 133, the Office must regard the application as abandoned upon failure of the applicant to timely prosecute the application. Once it is determined that the application was properly abandoned, as it was in this instance, the circumstances of the abandonment are not relevant to the issue of withdrawal of the holding of abandonment. A proper abandonment will not be withdrawn. The circumstances of the abandonment may be considered on petition to revive.

In view thereof, the petition under § 1.181 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, applicant is not precluded from seeking revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate. Any general questions regarding the filing of a petition to revive may be directed to the Office of Petitions Helpdesk at 571-272-3282 (M-F, 8:30am - 5:00 pm (EST).

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 specific to 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
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Paper No.

William S. Myskowski
1016 Baker Road
Sinking Spring PA 19608

COPY MAILED

MAR 3 1 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| William Myskowski | : | DECISION ON PETITION |
| Application No. 11/029,858 | : | |
| Filed: January 6, 2005 | : | |
| Title: FASTENER DRIVER | : | |

This is a decision on the "Reconsideration of Petition to Withdraw Holding of Abandonment" filed January 10, 2008.

The above-identified application became abandoned effective February 26, 2007 for failure to timely file a proper reply to the final Office action mailed August 25, 2006. A reply was filed on February 23, 2007 but determined by the examiner not to place the application in condition for allowance. (See Advisory Action mailed March 22, 2007). A courtesy Notice of Abandonment was mailed on June 5, 2007.

By decision mailed November 15, 2007, the initial "Petition to Withdraw Holding of Abandonment" filed July 13, 2007 was dismissed. It was concluded that the application properly became abandoned for failure to file a timely and proper response to the final Office action mailed August 25, 2006.

In response, applicant filed the instant request for reconsideration. Applicant maintains that his February 20, 2007 reply was a timely and proper response and this reply demonstrated with the claims, abstract, specification and figures that my invention is unique.

The petition has been reconsidered, but petitioner's arguments have not been found persuasive. To avoid abandonment of an application with the filing of an amendment, the amendment must place the application in condition for allowance. The examiner has reconfirmed that the response as received on February 23, 2007 did not place the application in condition for allowance. The basis for the determination that the amendment was not sufficient is set forth on the Advisory Action at 3a. Petitioner's contention that the issues raised are limited to grammatical ones which could have been handled by the expeditiously by the examiner is not persuasive. Petitioner did not timely submit a proper response and accordingly, the application was properly abandoned.

In view thereof, the request for reconsideration of petition under § 1.181 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, applicant is not precluded from seeking revival under the provisions of 37 CFR 1.137. Such a request should include a cover letter entitled "Petition under 37 C.F.R. § 1.137(a)" or "Petition under 37 C.F.R. § 1.137(b)," as appropriate.

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 specific to 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
Alexandria, VA 22313-1450
www.uspto.gov

GARY L. EASTMAN
EASTMAN & ASSOCIATES
707 BROADWAY STREET, SUITE 1800
SAN DIEGO CA 92101

**COPY MAILED**

OCT 12 2007

**OFFICE OF PETITIONS**

In re Application of :
Barksdale :
Application No. 11/029,902 : ON PETITION
Filed: January 4, 2005 :
Attorney Docket No. 112407.UTL1 :
For: HOLOGRAPHIC IMAGING PASSIVE TRACKING SOLAR ENERGY FILTER, CONCENTRATOR AND CONVERTER WITH PV CELL COOLING MEANS

This is a decision on the petition under 37 CFR 1.137(b), filed June 18, 2007 (certificate of mailing date June 13, 2007), 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 Nonprovisional Application mailed April 11, 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 12, 2005. A Notice of Abandonment was mailed on February 17, 2006.

Applicant has submitted a proper reply to the April 11, 2005 Notice in the form of a substitute specification, replacement abstract, the basic filing fee, search fee, examination fee, and surcharge, an acceptable statement of the unintentional nature of the delay in responding to the April 11, 2005 Notice, and the $750.00 petition fee. Accordingly, the petition under 37 CFR 1.137(b) is granted.

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.

After the mailing of this decision, the application will be returned to the Office of Initial Patent Examination for further processing.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

November 18, 2009

Patent No. : 7,397,116 B2
Appl. No. : 11/029,915
Inventor(s) : Hiroyuki Onishi, et al.
Issued : July 8, 2008
Title : **SEMICONDUCTOR APPARATUS AND PRODUCTION METHOD THEREOF SUITABLE FOR ELECTRIC POWER DEVICES**
Docket No. : **5000-5243**

Re: Request for Certificate of Correction

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

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.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

Locke Lord Bissell & Liddell LLP
Attn: IP Docketing
Three World Financial Center
New York NY 10281-2101

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

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

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Chad Ward | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647632 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/029,920 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/04/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

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

The patent term adjustment has been determined to be **1339** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MAILED
FROM DIRECTORS OFFICE

AUG 0 2 2005

TECHNOLOGY CENTER 3600

KENNETH A. RODDY
SUITE 100,
2916 WEST T.C. JESTER BOULEVARD
HOUSTON, TX 77018

| | | |
|---|---|---|
| In re application of | : | **DECISION ON PETITION** |
| James Moody | : | **TO MAKE SPECIAL** |
| Application No. 11/029,934 | : | **(APPLICANT'S AGE)** |
| Filed: January 6, 2005 | : | |
| For: ARTICULATED PIPE JACK CLAMP | | |

This is a decision on the petition submitted on January 6, 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 photocopy of James Moody's driver license indicating that he is at least 65 years of age. It is noted, however, that the petition and evidence of applicant's age were submitted on January 6, 2005 and that applicant's 65th birthday was April 13, 2005, over three months <u>after</u> the petition was submitted. Since applicant is now over 65, the petition has been granted. However, had this not been the case the petition would have been denied. Petitions should not be submitted which request relief based on some anticipated future event.

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

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

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

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

RAR/dcg: 6/23/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

**COPY MAILED**

APR 14 2005

**OFFICE OF PETITIONS**

In re Application of :
Michael Gallagher :
Application No. 11/029,947 : ON PETITION
Filed: January 4, 2005 :
Attorney Docket No.: 7090P008 :

This is a decision on the petition filed March 11, 2005, requesting in effect, that the Notice to File Missing Parts(s)in a Nonprovisional Application ("Notice") mailed February 25, 2005, be withdrawn.

The application was filed on January 4, 2005. However, on February 25, 2005, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of January 4, 2005 and advising applicant that figures 1 and 2 as described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition contends that the application as filed contained 7 sheets of drawings which included figures 1 and 2. Petitioner has submitted a copy of figures 1 and 2 as described in the specification.

Applicants' postcard receipt is prima facie evidence that seven (7) sheets of drawings including figures 1 and 2 were received on January 4, 2005, but figures 1 and 2 are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that figures 1 and 2 as described in the specification were received on January 4, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted pages of drawings. However, the Notice was correct regarding the requirement to submit an executed oath or declaration and surcharge fee.

Accordingly, the $400.00 petition fee will be refunded to Deposit Account 02-2666.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 4, 2005 using the 5 sheets of drawings submitted on January 4, 2005 and the substitute figures 1 and 2 submitted with the petition on March 11, 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

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

**PHILIP S. JOHNSON**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWI8CK NJ 08933-7003**

COPY MAILED
JUL 0 3 2006
OFFICE OF PETITIONS

In re Application of :
Lieven Meerpoel et al :
Application No. 11/029,956 : ON PETITION
Filed: January 5, 2006 :
Attorney Docket No. JAB1621US DIV :

This is a decision on the petition, filed June 29, 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 23, 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 1626 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).

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

**DATE** : **4/10/09**

**TO SPE OF** : ART UNIT **2871 (2800)**

**SUBJECT** : Request for Certificate of Correction for Appl. No.: **11/029,965** Patent No.: **7,499,132**

**Attn: Richard H. Kim**

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:** _____

_____

_____

_____

_____ 2871
**SPE** **Art Unit**

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

**DATE** : **8/4/09**

**TO SPE OF** : ART UNIT **2872 (2800)**

**SUBJECT** : Request for Certificate of Correction for Appl. No.: **11/029,965** Patent No.: **7,499,132**

**Attn: Richard Kim**

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:** _____

_____

_____

_____

_____ 2871
**SPE** **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1128
4417 LANCASTER PIKE
WILMINGTON DE 19805

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OCT 2 0 2006
OFFICE OF PETITIONS

In re Application of :
Joseph Anthony Perrotto, et al. :
Application No. 11/030,000 : ON PETITION
Filed: January 5, 2005 :
Attorney Docket No. CL1453 US DIV :

This is a decision on the petition filed August 9, 2006, to revive the above identified application under 37 CFR 1.137(b)[1].

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

This application became abandoned on November 28, 2005, for failure to file a timely response to a Restriction Requirement mailed October 26, 2005, which set a one month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained prior to the expiration of the extendable period. Accordingly, a Notice of Abandonment was mailed June 27, 2006.

The petition fee in the amount of $1500.00 has been applied to the finance records for the instant patent application.

The response to the Restriction Requirement filed August 9, 2006 will be referred to Technology Center 1774 for further processing.

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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

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

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

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

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

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

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

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NOV 09 2005

**OFFICE OF PETITIONS**

In re Application of
Dexter V. Bautista
Application No. 11/030,005
Filed: January 5, 2005
Attorney Docket No. 3191E-000038

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(b)

This decision is in response to the petition filed October 25, 2005, with a request for a five month extension of time, under 37 CFR 1.47(b), in response to the Notice to File Missing Parts "Notice" mailed March 25, 2005.

The petition is **DISMISSED.**

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application, naming Dexter V. Bautista was filed on January 5, 2005 without an executed oath or declaration. Accordingly, on March 25, 2005 , a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring, an executed oath or declaration and a surcharge for its late filing. In response, the present petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

The petition lacks items (5).

As to item (5), the statement establishing proprietary interest, made by Susan E. Rutt, Vice President for Engineering, indicates that a copy of the agreement whereby the non-signing inventor agreed to assign the invention was to be attached with the petition documents, however, no such document was attached.

Petitioner must provide proof that the Rule 1.47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application.[1] Petitioners should provide a copy of the employment agreement between the non-signing inventor and the Rule 1.47(b) applicant (company); a copy of an assignment agreement showing that the invention disclosed in the application is assigned to the Rule 1.47(b) applicant; or a legal memorandum signed by an attorney familiar with the law of the jurisdiction stating that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

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

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

By FAX: (571) 273-8300

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

[1] MPEP 409.03(f).

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BLOOMFIELD HILLS MI 48303

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JAN 10 2006

**OFFICE OF PETITIONS**

In re Application of
Dexter V. Bautista
Application No. 11/030,005
Filed: January 5, 2005
Attorney Docket No. 3191E-000038

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

This decision is in response to the request for reconsideration, filed December 19, 2005, under 37 CFR 1.47(b).

The petition is **GRANTED**.

The above-identified application, naming Dexter V. Bautista was filed on January 5, 2005 without an executed oath or declaration. Accordingly, on March 25, 2005 , a "Notice To File Missing Parts of Nonprovisional Application" was mailed, requiring, an executed oath or declaration and a surcharge for its late filing. In response, a petition was filed on October 25, 2005 and dismissed in a decision mailed November 9, 2005 because petitioners had failed to establish proprietary interest.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest, and

(6) proof of irreparable damage.

With the request for reconsideration, petitioners have shown that the assignee has a proprietary interest in the above-identified application with a copy of the from Jianyang Yu, an attorney familiar with the law of China. The attorney states that a court of competent jurisdiction would by the weight of authority in that jurisdiction award the title of the invention to the Rule 1.47(b) applicant.

All requirements under 37 CFR 1.47(b) therefore having been met, 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 matter will be referred to Technology Center 3661 for examination in due course.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 1

DATE : Aug 8, 2006

TO SPE OF : ART UNIT 3635 (S.P.E. Naoko Slack)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/030029 Patent No.: 7065934

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**.

STACY POWELL

Certificates of Correction Branch

703-308-9390 ext. 120

**Thank You For Your Assistance**

**Th 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:** _____

NAOKO SLACK
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

**SPE**

3635

**Art Unit**

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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JUN 23 2005

OFFICE OF PETITIONS

In re Application of :
White et al. :
Application No. 11/030,044 : ON PETITION
Filed: January 7, 2005 :
Attorney Docket No.: 9423.0023-05 :

This is a decision on the petition filed May 26, 2005, requesting in effect, that the Notice to File Missing Parts(s)in a Nonprovisional Application ("Notice") mailed March 29, 2005, be withdrawn.

The application was filed on January 7, 2005. However, on March 29, 2005, the Office of Initial Patent Examination (OIPE) mailed the Notice stating that the application had been accorded a filing date of January 7, 2005 and advising applicant that figures 22A-B as described in the specification appeared to have been omitted.

In response, the present petition was filed. The petition contends that the application as filed contained 15 sheets of drawings which included figures 1-22b. Petitioner has submitted a copy of figures 22A-B as described in the specification.

Applicants' postcard receipt is prima facie evidence that at fifteen (15) sheets of drawings were received on January 7, 2005, but figures 22A-B are not present in the file. Hence, it is clear that the papers for this application were mishandled by the Office. Therefore, it is concluded that fifteen sheets of drawings including figures 22A-B as described in the specification were received on January 7, 2005, as shown in counsel's file, and later misplaced in the office.

The petition is Granted-In-Part to the extent it applies to the omitted pages of drawings. However, the Notice was correct regarding the requirement to submit an executed oath or declaration and surcharge fee.

Accordingly, the $400.00 petition fee will be refunded to Deposit Account 06-0916.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 7, 2005 using the 14 sheets of drawings submitted on January 7, 2005 and the substitute figures 22A-B submitted with the petition on May 26, 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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Commissioner for Patents
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Alexandria, VA 22313-1450
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MAY 05 2008

SHELLY GUEST CERMAK
CERMAK KENEALY & VAIDYA, LLP
515 E. Braddock Road, Suite B
Alexandria, VA 22314

| | |
|---|---|
| In re Application of | : |
| Ryosuke Yumioka et al | : |
| Serial No.: 11/030,088 | : PETITION DECISION |
| Filed: January 7, 2005 | : |
| Attorney Docket No.: US-158 | : |

This is in response to the petition under 37 CFR 1.113(a), which is being treated as if filed under 37 CFR 1.181, filed January 22, 2008, requesting that the Office grant the claimed priority date because translations of the provisional priority documents have been correctly and timely filed.

BACKGROUND

A review of the file history shows that the examiner denied priority to provisional applications 60/537,503 and 60/631,407 in the first action on the merits mailed July 3, 2007 because the applicants had not replied to a Pre-Exam formality Notice to provide a translation of the provisional applications before the publication of pending non-provisional application 11/030,088 (the instant application). Applicants replied that there is no requirement that the translation and certification be filed prior to publication of the non-provisional application and that applicants only received notification that a Notice **will** be mailed but no such Notice was ever mailed out.

DISCUSSION

The controlling rule for this situation is 37 CFR 1.78(a)(5)(iv), which states:

> Sec. 1.78 Claiming benefit of earlier filing date and cross-references to other applications.
> (a) * * *
> (5)(i) * * *
> (iv) If the prior-filed provisional application was filed in a language other than English and both an English-language translation of the prior-filed provisional application and a statement that the translation is accurate were not previously filed in the prior-filed provisional application, applicant will be notified and given

> a period of time within which to file, in the prior-filed provisional application, the translation and the statement. If the notice is mailed in a pending nonprovisional application, a timely reply to such a notice must include the filing in the nonprovisional application of either a confirmation that the translation and statement were filed in the provisional application, or an amendment or Supplemental Application Data Sheet withdrawing the benefit claim, or the nonprovisional application will be abandoned. The translation and statement may be filed in the provisional application, even if the provisional application has become abandoned.

Nothing in this rule requires the translation to be filed before publication of the pending non-provisional application. Had the Notice been mailed, petitioner would have responded in a timely manner. Notwithstanding, the translations were filed in response to the first Office action and are now of record in the instant case. In view of the perfection of the claim for foreign priority achieved by filing the translations of the non-English language provisional applications, priority under 35. U.S.C. 119(e) based on the provisional applications 60/537,503 filed on 1/21/04 and 60/631,407 filed on 11/30/24 is hereby granted.

DECISION

The petition is **GRANTED**.

Should there be any questions about this decision please contact Robert A. Wax, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at (571) 272-0623 or by facsimile sent to the general Office facsimile number, (571) 273-8300.

John L. LeGuyader
Director, Technology Center 1600

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**John P. Halvonik**
**Suite 202**
**15200 Shady Grove Road**
**Rockville, MD 20840**

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JUL 17 2007

OFFICE OF PETITIONS

In re Application of :

Robert Joe Wilson :
Application No. 11/030,089 : DECISION ON PETITION
Filed: January 7, 2005 : 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 January 9, 2007.

The request is **APPROVED**.

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

The request was signed by John P. Halvonik, the sole attorney of record.

John P. Halvonik has been withdrawn as attorney.

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

All future correspondence will be directed to the first named inventor Robert Joe Wilson at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams
Terri Williams
Petitions Examiner
Office of Petitions

cc: **Robert Joe Wilson**
**136 Woodhaven Circle**
**Athens, GA 30606**

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 |
|---|---|---|---|
| 11/030,089 | 01/07/2005 | Robert Joe Wilson | |

**CONFIRMATION NO. 3762**

*OC000000024846416*

John P. Halvonik
Ste. 202
15200 Shady Grove Rd.
Rockville, MD 20840

Date Mailed: 07/16/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/09/2007.

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

---

Gelli Williams

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

FORMER ATTORNEY/AGENT COPY

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/11/06

TO SPE OF : ART UNIT 2872

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/030124** Patent No.: **7006270**

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.

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

**Comments:** Requests for Certificate of Correction filed on 10/17/06 and 11/17/06 are approved.

**DREW A. DUNN**
**SUPERVISORY PATENT EXAMINER**

**SPE**

2872
**Art Unit**

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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/030,128 | 01/07/2005 | Sung-joo Kim | Q85065 | 1881 |

7590 01/20/2009
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

| EXAMINER |
|---|
| ANYIKIRE, CHIKAODILI E |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2621 | |

| MAIL DATE | DELIVERY MODE |
|---|---|
| 01/20/2009 | 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.

Betty Powell

Patent Publication Branch
Office of Data Management

Adjustment date: 01/21/2009 BPOWELL
01/10/2005 ANABI1 00000048 11030128
02 FC:1111 -500.00 OP
04 FC:1202 -100.00 OP

Repln. Ref: 01/21/2009 BPOWELL 0015404700
DAH:182220 Name/Number:11283739
FC: 9204 $500.00 CR



FORM PET651G (Rev. 08/07)

Repln. Ref: 01/21/2009 BPOWELL 0015462700
DA#:194880 Name/Number:11030128
FC: 9204 $600.00 CR

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**ARENT FOX LLP**
**1050 Connecticut Avenue, N.W.**
**Suite 400**
**Washington, DC 20036**

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SEP 30 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Takaaki Furuyama | : | |
| Application No. 11/030,129 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 028849-00032 | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 31, 2009.

The request is **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 M. Marmelstein on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 6, 2009 that requires a reply from the applicant.

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

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Takaaki Furuyama**
**c/o SPANSION JAPAN LIMITED**
**6, Kogyodanchi, Monden-machi, Aizuwakamatsu-shi**
**Aizuwakamatsu, 965-0845**
**JAPAN**

cc: **SPANSION, INC.**
**915 DeGuigne Dr.**
**P.O. Box 3453**
**Office 203 M/S 250**
**Sunnyvale, CA 94088**

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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/030,129 | 01/07/2005 | Takaaki Furuyama | 028849-00032 |

**CONFIRMATION NO. 1878**

**POWER OF ATTORNEY NOTICE**

4372
ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

*OC000000038037769*

Date Mailed: 09/29/2009

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/31/2009.

- 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.

/tsjohnson/

---

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

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WK

Mailed: 8/19/05
In re application of
Klaus Tank
Serial No. 11/030,160
Filed: January 7, 2005
For: COMPOSITE DIAMOND COMPACTS

DECISION ON PETITION

This is a decision on PETITION TO EXPUNGE UNDER 37 C.F.R. 1.59(b), filed May 19, 2005, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

**DECISION**

Petitioner requests that the Application Data Sheet filed January 7, 2005 be expunged and that the documents are appropriately disposed of in accordance with 37 CFR 1.59. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/030,160

The image of the document will be removed from the Official file.

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Corwin P. Umbach
Oblon, Spivak, McClelland, Maier & Neustadt, P.C.
1940 Duke Street
Alexandria, VA 22314

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2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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JUN 26 2007

OFFICE OF PETITIONS

In re Application of Rathburn et al. :
Application No. 11/030,213 : Decision on Petition
Filing Date: January 4, 2005 :
Attorney Docket No. 52191-311928 :

This is a decision on the petition under 37 CFR 1.181, filed February 1, 2007, to withdraw the holding of abandonment.

The petition is **granted.**

A non-final Office action including a requirement for restriction/election was mailed January 10, 2006. The Office action set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later).

A reply to the Office action was filed January 25, 2006.

A Notice of Abandonment was mailed September 20, 2006. The Notice of Abandonment stated a reply had not been filed in response to the January 10, 2006 Office action.

The electronic file wrapper contains the scanned images of the papers filed January 25, 2006. Therefore, the Notice of Abandonment is clearly incorrect.

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

Technology Center Art Unit 2839 will be informed of the instant decision and the examiner will consider the merits of the papers filed January 25, 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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PATENT DOCKETING
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

JUN 27 2007

| | | |
|---|---|---|
| In re Application of | : | |
| RATHBURN et al. | : | DECISION ON PETITION |
| Application No. 11/030,213 | : | |
| Filed: January 4, 2005 | : | |
| For: Fine Pitch Electrical Interconnect Assembly | : | |

This is a decision on the petition filed February 1, 2007, requesting that the holding of abandonment in the above-identified application be withdrawn, which supplements the Communication and Examiner's Interview Summary" filed October 3, 2006.

The petition to withdraw the holding of abandonment is GRANTED.

A Restriction Requirement was mailed January 10, 2006, setting a one-month shortened statutory period for filing a response. In the absence of a response, the application was held abandoned and a Notice of Abandonment was mailed September 20, 2006.

Petitioner asserts that a response titled, "Response to the Restriction Requirement," was timely filed by facsimile transmission on January 25, 2006. Petitioner further asserts that the Response to the Restriction Requirement was posted on public PAIR and that the examiner required a communication to withdraw the holding of abandonment. A response titled "Communication and Examiner's Interview Summary," was filed October 3, 2006 to withdraw the holding of abandonment. To support these assertions, petitioner submitted 1) a copy of the Auto-Reply Facsimile Transmission Report from the USPTO dated January 25, 2006 and 2) a copy of the Electronic Acknowledge Receipt dated October 3, 2006 showing transmission of applicant summary of interview with examiner.

The review of the application file reveals that the response titled, "Response to the Restriction Requirement," was received and matched with the file. However, the response was not noticed

by either the examiner or the technical support staff and consequently the application was held to be abandoned. The application is not abandoned in fact.

For the above reasons, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn. Inconvenience to petitioner is regretted.

The application file is being forwarded to the technical support staff for processing the response titled "Response to the Restriction Requirement." From there, it will be returned to the examiner for further prosecution.

Questions regarding this decision should be directed to Jose' G. Dees at 571-272-1569.

Richard Seidel, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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3404 E. HARMONY ROAD, M/S 35
FORT COLLINS, CO 80527-2400

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MAY 12 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Michael Martin :
Application No. 11/030,216 :
Filed: January 4, 2005 :
Attorney Docket No. 100202597-2 :

This is a decision on the petition under 37 CFR 1.10(d), filed April 4, 2005, requesting that the above-identified application be accorded a filing date of January 4, 2005, rather than the presently accorded filing date of January 5, 2005.

The petition is **GRANTED**.

Applicants request the earlier filing date on the basis that the application was purportedly deposited in Express Mail service (Express Mail mailing label #EV365586968US) on January 4, 2005, 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 January 5, 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 January 4, 2005.

In support, the petition is accompanied by a copy the Express Mail mailing label identified in the original application papers which indicates a "date-in" of January 5, 2004, but is date-stamped by the USPS, twice, on January 4, 2005. Additionally, the petition is accompanied a copy of the "USPS Track & Confirm Shipment Details" record for Express Mail mailing label #EV365586968US, which indicates the item was, in fact, placed into USPS Express Mail service on January 4, 2005.

In view of the above, 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 January 4, 2005.

Accordingly, the application is entitled to a filing date of January 4, 2005.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 4, 2005, and the issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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SUITE 400
LAGUNA HILLS CA 92653

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MAY 31 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Fu Shun Liang | : | |
| Application No. 11/030,230 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. 212/783 | : | |

This is a decision on the petition under 37 CFR under 1.181, filed February 27, 2006, requesting that the Office withdraw the holding of abandonment of the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.[1]

This application was held abandoned for failure to respond in a timely manner to the nonfinal Office action mailed on July 12, 1005. A Notice of Abandonment was mailed on October 13, 2005. Petitioner asserts that petitioner filed a timely and proper response to the nonfinal Office action on September 12, 2005.

Upon a review of the record, it appears that the application number in the heading of the response identified application No. "11/080,230" rather than the intended application No. "11/030,230." The response was located in the file of application No. 11/080,230. A review of the correspondence indicates that the USPTO received the response on September 12, 2005, but it was not matched with the file due to the incorrect application number.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP Section 508.03. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

[1] The Office notes that the application number in the heading of the present petition identified the application number as "11/080,230" rather than the intended application number, "11/030,230."

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby withdrawn and the application is returned to pending status.

The matter is being referred to Technology Center Art Unit 1725.

Telephone inquiries should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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**INTELLECTUAL PROPERTY DEPARTMENT**
**100 BOSCH BOULEVARD**
**NEW BERN NC 28562**

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JAN 17 2007

OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Menten et al. | : |
| Application No. 11/030,234 | : DECISION GRANTING PETITION |
| Filed: January 6, 2005 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 2002P00747WOUS | : |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/EP2003/006395, filed on June 17, 2003).

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 120 and 365(c) and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (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 and 365(c) to the above-noted, prior-filed PCT application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed PCT application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282. Any other inquiries should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3744 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the prior-filed application.

Liana Walsh
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 |
|---|---|---|---|---|---|---|---|
| 11/030,234 | 01/06/2005 | 3744 | 1130 | 2002P00747WOUS | 1 | 18 | 1 |

**CONFIRMATION NO. 4353**
**CORRECTED FILING RECEIPT**
*OC000000022012084*
*OC000000022012084*

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 01/17/2007

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)**

Frank Menten, Regensburg, GERMANY;
Bernward Reinker, Regenstauf, GERMANY;

**Assignment For Published Patent Application**

BSH Bosch und Siemens Hausgerate GmbH, Munich, GERMANY

**Power of Attorney:** The patent practitioners associated with Customer Number **000046726**.

**Domestic Priority data as claimed by applicant**

This application is a CON of PCT/EP03/06395 06/17/2003

**Foreign Applications**

GERMANY DE10230693.1 07/08/2002

**If Required, Foreign Filing License Granted:** 02/26/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/030,234**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Refrigerator or freezer

**Preliminary Class**

062

## 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).

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## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Daniel Paul Cahill | : | |
| Application No. 11/030,246 | : | DECISION GRANTING PETITION |
| Filed: January 6, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 2004-0245.01 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed July 31, 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 December 5, 2006, is accepted as having been unintentionally delayed.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 1734

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC**
**55 SOUTH COMMERCIAL STREET**
**MANCHESTER, NH 03101**

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John M. Vasuta, Esq.
Bridgestone Americas Holding, Inc.
1200 Firestone Parkway
Akron, OH 44317

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Dave Laubie | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640216 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,252 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **861** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Paper No.

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**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Chikafumi Yokoyama, Akira Yoda and | : |
| Hiroshi Kikuchi | : DECISION ACCORDING STATUS |
| Application No. 11/030,261 | : UNDER 37 C.F.R. § 1.47(a) |
| Filed: January 6, 2005 | : |
| Attorney Docket No. 59452US005 | : |

This is a decision on the SUPPLEMENTAL[1] PETITION UNDER 35 USC § 1.47(a) filed October 4, 2006. A review of the image file wrapper for this application reveals that the petition was originally filed on April 11, 2005 (certificate of mailing dated Monday April 11, 2005). This petition was recently forwarded to the undersigned for consideration.

The petition is **GRANTED**.

The above-identified application was filed on January 6, 2005, without an executed oath or declaration. Accordingly, on August 26, 2005, the Office mailed a "Notice to File Missing Parts of Application," requiring an executed oath or declaration and the surcharge for its late filing (and the replacement drawings). This Notice set a two-month time limit for reply with extensions of time obtainable under § 1.136(a).

In response, applicants timely filed a petition (Receipt of replacement drawings on June 7, 2005, made timely by an accompanying petition and fee for extension of time within the second month is acknowledged). The petition included a

[1] This petition was supplemented in light of a dismissal rendered in a related case.

declaration executed by joint inventors Yoda and Kikuchi on behalf of themselves and on behalf of non-signing inventor Yokoyama. Applicants assert that status under 1.47(a) is proper because joint inventor Yokoyama refuses to join in the application. By statement of facts of Toshio Tamara, the person who presented the papers to inventor Yokoyama and attests to his refusal to sign the documents, and documentary evidence in the form of an email communication from inventor Yokoyama, stating his refusal to join in the application, it is concluded that applicants have shown that after having been presented with the application papers inventor Yokoyama expressly refused to join in the application.

The declaration filed April 11, 2005 (and resubmitted October 4, 2006), has been reviewed and found in compliance with § 1.63. The petition includes the last known address of inventor Yokoyama and a petition fee of $130. The required petition fee is $200. The fee deficiency of $70 is being charged to Deposit Account No. 13-3723, as authorized.

In view thereof, this application is hereby accorded Rule 1.47(a) status.

As provided in new Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

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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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

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**OFFICE OF PETITIONS**

In re Application of
Victor Fuk-Pong Man, et al.
Application No. 11/030,271
Filed: January 4, 2005
Attorney Docket No. 163.1877USI1

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt on behalf of herself.

Sarah M. Monfeldt has been withdrawn; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There are no pending Office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

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**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Tarashita et al. | : | |
| Application No 11/030284 | : | |
| Filing or 371(c) Date: 01/07/2005 | : | |
| Attorney Docket Number: | : | |
| 3693-58 | : | ON PETITION |

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action", filed October 6, 2006. The petition is properly treated under 37 C.F.R. 1.181(a). 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 Allowance and Issue Fee Due ("Notice"), mailed May 25, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on August 26, 2006. A Notice of Abandonment was mailed September 28, 2006.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Publishing Division for re-mailing of the Notice.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Shinichi Terashita | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7580101 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,284 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **618** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 7/26/07

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/030285 Patent No: 7175180 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☑ **Approved** — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

SPE — Art Unit 3711

EUGENE KIM
SUPERVISORY PATENT EXAMINER

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ___

DATE : 7/26/07

TO SPE OF : ART UNIT 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/030285 Patent No: 7175180 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within 7 days, to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

*VIRGINIA TOLBERT*
**Certificates of Correction Branch**
**703-308-9390 ext. 113**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**
Note your decision on the appropriate box.

- ☒ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

EUGENE KIM
SUPERVISORY PATENT EXAMINER

3711
**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

Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

COPY MAILED
JUN 0 6 2006
OFFICE OF PETITIONS

Applicant: Samain et al.
Appl. No.: 11/030,296
Filing Date: January 7, 2005
Title: DETERGENT COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE POLYMER CHOSEN FROM CATIONIC AND AMPHOTERIC POLYMERS, AT LEAST ONE DETERGENT SURFACTANT, AND AT LEAST ONE DRAWING POLYMER, AND PROCESS OF USE
Attorney Docket No.: 05725.1432-00
Pub. No.: US 2005/0181960 A1
Pub. Date: August 18, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 17, 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

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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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

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NOV 29 2006

OFFICE OF PETITIONS

Applicant: Samain et al.
Appl. No.: 11/030,296
Filing Date: December 30, 2004
Title: DETERGENT COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE POLYMER CHOSEN FROM CATIONIC AND AMPHOTERIC POLYMERS, AT LEAST ONE DETERGENT SURFACTANT, AND AT LEAST ONE DRAWING POLYMER, AND PROCESS OF USE
Attorney Docket No.: 05725.1432-00
Pub. No.: US 2006/0205618 A9
Pub. Date: September 14, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on November 13, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, as it unnecessarily increases the cost to the Office. See 37 CFR 1.4(b). A request for corrected publication need only point out what was printed incorrectly in the application, where the error occurs in the publication and where the correct text or drawing is found in the application papers. Marked up relevant copies of the applications papers and the pre-grant publication may facilitate processing of the request, where it is not readily apparent where the error occurs. If it is not clear why the error is a material error, further explanation may be warranted.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**MORRISON & FOERSTER LLP**
**1650 TYSONS BOULEVARD**
**SUITE 400**
**MCLEAN VA 22102**

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JUN 29 2007

OFFICE OF PETITIONS

In re Application of

**ROU**, Shanghsien (Alex) et al.
Application No. 11/030,299
Filed: January 07, 2005
Attorney Docket No. **146712004510**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 30, 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. Davis on behalf of all attorneys of record who are associated with customer No. 25227. 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SHANGHSIEN (ALEX) ROU**
**45311 ONONDAGA DRIVE**
**FREMONT, CA 94539**

cc: **DARBY & DARBY P.C.**
**1500 K STREET, N.W.**
**SUITE 250**
**WASHINGTON, D.C. 20005-1714**

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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 |
|---|---|---|---|
| 11/030,299 | 01/07/2005 | Shanghsien (Alex) Rou | 146712004510 |

**CONFIRMATION NO. 1616**

*OC000000024454385*

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 06/21/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/30/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. BOX 1450
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MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington, DC 20006

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FEB 21 2006

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Lee, et al. | : | |
| Application No. 11/030,323 | : | UNDER 37 CFR 1.47(b) |
| Filed: January 7, 2005 | : | |
| Atty. Dkt. No.: 10401.011.20 | : | |
| For: METHOD OF FABRICATING | : | |
| VERTICAL STRUCTURE LEDS | : | |

This decision is in response to the petition under 37 CFR 1.47(b), filed October 6, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)," 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 January 7, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application ("Notice") was mailed April 6, 2005. The Notice required, *inter alia*, an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; (4) a statement of the last known address of the non-signing inventor; (5) proof of proprietary interest; and (6) a showing that such action is required to preserve the rights of the parties or to prevent irreparable damages.

The instant petition fails to satisfy requirements (1) and (5) set forth above.

As to item (1), petitioners have failed to establish that non-signing inventors In-Kwon Jeong and Jong-Lam Lee received the application papers (specification, including claims, drawings, and oath or declaration) and thereafter refused to execute an oath or declaration.

Petitioners allege that a copy of a declaration was sent to inventors In-Kwon Jeong and Jong-Lam Lee and that to date neither inventor has responded to requests to execute the declaration.

Petitioners are reminded that before a refusal to sign an oath or declaration can be alleged, it must be demonstrated that bona fide effort has been made to present a complete copy of the application papers (specification, including claims, drawings, and oath or declaration) to each non-signing inventor or the legal representative of each non-signing inventor. A copy of the application papers should be sent to the last known address of each non-signing inventor or to the address of the non-signing inventor's attorney. See, MPEP 409.03(d). Any renewed petition must be accompanied by evidence that the inventor, after having been presented with the complete application papers, thereafter refused to execute the oath or declaration.

As to item (5), petitioners have failed to sufficiently establish a proprietary interest in the instant application. Petitioners must establish that the invention has been assigned to applicant, that the inventor has agreed in writing to assign the invention to applicant, or that applicant otherwise has sufficient proprietary interest in the subject matter to justify the filing of the application. Petitioner must submit a copy of an employment agreement between the inventor and applicant or a legal memorandum signed by an attorney familiar with the law of the relevant jurisdiction stating that a court of competent jurisdiction would by weight of authority in that jurisdiction award title of the invention to Rule 47 applicant.

It is noted that the instant petition does reference an assignment, however, evidence of such does not appear to have been submitted.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office
Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MCKENNA LONG & ALDRIDGE LLP
Song K. Jung
1900 K Street, N.W.
Washington, DC 20006

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JUL 17 2006
OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Lee, et al. | : DECISION GRANTING STATUS |
| Application No. 11/030,323 | : UNDER 37 CFR 1.47(b) |
| Filed: January 7, 2005 | : |
| Atty. Dkt. No.: 10401.011.20 | : |
| For: METHOD OF FABRICATING | : |
| VERTICAL STRUCTURE LEDS | : |

This decision is in response to the renewed petition under 37 CFR 1.47(b), filed April 21, 2006.

The petition is **GRANTED**.

Petitioner has shown that the inventors named in the instant application have either refused to execute the declaration for the above-identified application after having been presented with the application papers or cannot be reached or located for presentation of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

JONG-LAM LEE
DEPARTMENT OF MATERIALS OF SCIENCE AND ENGINEERING
POHANG UNIVERSITY OF SCIENCE AND TECHNOLOGY
SAN 31 HYOJA-DONG, NAM-GU
POHANG, KYUNGBUK, KOREA

| | | |
|---|---|---|
| In re Application of | : | |
| Lee, et al. | : | |
| Application No. 11/030,323 | : | LETTER |
| Filed: January 7, 2005 | : | |
| Atty. Dkt. No.: 10401.011.20 | : | |
| For: METHOD OF FABRICATING | : | |
| VERTICAL STRUCTURE LEDS | : | |

COPY MAILED
JUL 17 2006
OFFICE OF PETITIONS

Dear Sir:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

STEVENS DAVIS MILLER & MOSHER, LLP
1615 L STREET, NW
SUITE 850
WASHINGTON DC 20036

**MAILED**

AUG 15 2005

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of:
Richard Fenrich, et al.
Application No. 11/030,327
Filed: January 7, 2005
For: **LOW POWER FINGERPRINT CAPTURE SYSTEM, APPARATUS, AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed June 8, 2005.

A grantable petition to make an application special under 37 C.F.R. § 1.102(d), and in accordance with MPEP 708.02, XI, for an invention which contributes to the countering of terrorism must be accompanied by a statement explaining how the invention contributes to countering terrorism. Examples of the types of technology for countering terrorism are set forth in MPEP 708.02, XI as including, but not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

The application file is being forwarded to the examiner for expedited action in its turn.

Krista Zele
Special Program Examiner
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**DUFT BORNSEN & FISHMAN, LLP**
**1526 SPRUCE STREET**
**SUITE 302**
**BOULDER CO 80302**

COPY MAILED

FEB 08 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Czyszczewski et al. | : | |
| Application No. 11/030,338 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. BLD920000040US2 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 2, 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 the Issue Fee Transmittal with payment of the issue and publication fees, (2) the petition fee, and (3) a proper statement of unintentional delay.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to the Publishing Division for processing into a patent.

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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LAW OFFICES OF JAMES E. WALTON
1169 N. BURLESON BLVD.
SUITE 107-328
BURLESON TX 76028

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AUG 2 4 2005

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Max A. Probasco et al | : | |
| Application No. 11/030,340 | : | DECISION GRANTING PETITION |
| Filed: January 6, 2005 | : | UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 0664MH-60094-US | : | |

This is a decision on the petition, filed June 27, 2005, 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 February 21, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

> (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
> (2) the petition fee as set forth in 37 CFR 1.17(m); and
> (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the

USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of February 23, 2006, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being forwarded to Technology Center Art Unit 2875 for examination in due course.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**CONNOLLY BOVE LODGE & HUTZ LLP**
**(FOR IBM RALEIGH)**
**P.O. BOX 2207)**
**WILMINGTON DE 19899-2207**

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NOV 2 5 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of<br>Claude Basso et al<br>Application No. 11/030,344<br>Filed: January 6, 2005<br>Attorney Docket No.<br>RPS920040036US1 | :<br>:<br>:<br>:<br>:<br>: | DECISION ON PETITION |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 23, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment/replacement drawings; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed November 23, 2007, is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2616 for appropriate action by the Examiner in the normal course of business on the reply received September 23, 2008.

Karen Creasy
Petitions Examiner
Office of Petitions

cc:

**CONNOLLY BOVE LODGE & HUTZ LLP**
**1875 EYE STREET, NW**
**SUITE 1100**
**WASHINGTON DC 20006**

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

DANIEL A. SCOLA, JR., ESQ.
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

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APR 13 2009

OFFICE OF PETITIONS

In re Application of :
Dennis Kujawski :
Application No. 11/030,346 : DECISION ON PETITION
Filed: January 6, 2005 : TO WITHDRAW
Attorney Docket No. 760-175 : 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 18, 2009.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request cannot be approved because the practitioners were not appointed by customer number 23869. Practitioners must withdraw by the customer number which they were appointed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: SCHIMED LIFE SYSTEMS, INC
ONE SCHIMED PLACE
MAPLE GROVE, MN 55311-1566

25 FEB 2005

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ROBERT W. BECKER & ASSOCIATES
Suite B
707 Highway 66 East
Tijeras NM 87059

| | |
|---|---|
| In re Application of<br>GROEBBEL et al.<br>Serial No.: 11/030,383<br>Filing Date: 29 December 2004<br>Attorney Docket No.: GE/as030062US<br>For: CLEANING DEVICE FOR CLEANING PIPES AND RECEPTACLES | DECISION ON<br>PETITION UNDER<br>37 CFR 1.137(b) |

This application is before the PCT Legal Office for consideration of applicant's petition to revive under 37 CFR 1.137(b) filed on 29 December 2004.

On 12 April 2003, applicant filed international application PCT/EP03/03808. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 19 October 2004. Thereafter, the application went abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 29 December 2004, applicant filed a petition to revive which was accompanied by a request for filing a continuation of an international application, which indicated that the application was a continuation of PCT/EP03/03808 filed on 12 April 2003. The application was assigned serial no. 11/030,383 and treated as a filing under 35 U.S.C. 111.

## DISCUSSION

The transmittal letter filed on 29 December 2004 did not identify the application as a national stage application being filed under 35 U.S.C. 371 but requested filing as a continuation application of pending international application PCT/EP03/03808. The application is considered filed under 35 U.S.C. 111(a). Accordingly, the original papers deposited on 29 December 2004 were properly accepted as a filing under 35 U.S.C. 111(a). Since the application is deemed to have been filed under 35 U.S.C. 111(a), international application PCT/EP03/03808 became abandoned as to the United States of America after midnight on 19 October 2004 for failure to pay the basic national fee.

On 29 December 2004, applicant also filed a petition under 37 CFR 1.137(b) to revive international application PCT/EP03/03808 as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present continuing application under 35 U.S.C. 111(a) is accepted as the appropriate response under 37 CFR 1.137(b). See MPEP § 711.03(c).

All of the requirements of 37 CFR 1.137(b) for revival have been submitted. Applicants' statement that "the entire delay in filing the above identified application from the due date for the national stage until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional" meets the requirements of 37 CFR 1.137(b)(3).

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International application PCT/EP03/03808 is being revived for purposes of continuity only and since continuity has been established by this decision reviving the international application, the international application is again abandoned in favor of the present continuing application 11/030,383.

Applicant is entitled to claim benefit under 35 U.S.C. 120 and 365(c) of the filing date of the international application for the common subject matter, since this application (Serial No. 11/030,383) and the international application (PCT/EP03/03808) designating the United States were copending on 29 December 2004. In order to obtain benefit of the earlier international application, applicant must make reference to the previous application and state the relationship. The required reference may either be in an application data sheet, or the specification must contain or be amended to contain such reference in the first sentence . An appropriate passage would be, "This is an continuation of international application PCT/EP03/03808, filed 12 April 2003, which designated the United States and is now abandoned." Applicant must provide this reference within four (4) months from the date of national stage commencement. *See* 37 CFR 1.78(a)(2)(ii). *See also* MPEP §1896. Applicant may wish to file a petition in this regard.

## CONCLUSION

Applicant's petition to revive under 37 CFR 1.137(b) is **GRANTED.**

This application is being forwarded to Office of Initial Patent Examination for further processing as an application filed under 35 U.S.C. 111(a), having a filing date of 29 December 2004. The application will then be examined in due course.

Cynthia M. Kratz

Cynthia M. Kratz
Attorney Advisor
PCT Legal Office
Office of PCT Legal Administration

Telephone: (571) 272-3286

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**DORSEY & WHITNEY LLP**
**555 CALIFORNIA STREET, SUITE 1000**
**SUITE 1000**
**SAN FRANCISCO CA 94104**

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Munsey et al. | : | |
| Application No. 11/030,392 | : | ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 33412/US/DJB/VEJ | : | |

This is a decision on the petition under 37 CFR 1.181, filed May 31, 2007, requesting the withdrawal of the holding of abandonment in the above-identified application and has been so treated.

The petition to withdraw the holding of abandonment is **GRANTED.**

The above-identified application was held abandoned for failure to timely reply to the Office action mailed August 22, 2006, which set a shortened statutory period for reply of three (3) months. A reply was due on or before November 22, 2006. A Notice of Abandonment was mailed on April 5, 2007.

Petitioner states that the reply was in fact timely filed. Petitioner has supplied a copy of the previously mailed correspondence, which bears a certificate of mailing date of October 23, 2006.

A review of the application file shows that the above-listed documents originally submitted on October 23, 2006 are of record. Further, USPTO financial records reflects payment of the $60.00 extension of time fee on October 23, 2006.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

A petition to withdraw the holding of abandonment under the provisions of 37 CFR 1.181 does not require a fee and none has been charged.

This matter is being referred to Technology Center AU 3618 for further examination on the merits.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

| | | |
|---|---|---|
| **Applicant** | : Markus Altmann | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7571664 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/11/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/030,404 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1135** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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E. THOMAS WHEELOCK
MORRISON & FOERSTER
755 PAGE MILL ROAD
PALO ALTO, CA 94304-1018

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Edward Perez | : | |
| Application No. 11/030,421 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. TSSNNZ00304 | : | FROM RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 5, 2005.

The request 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 of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(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 Wan Laymon at 571-272- 3220.

This matter is being referred to Technology Center AU 3738.

Dean Potter for

David Bucci
Petitions Examiner
Office of Petitions

cc: LEVINE BAGADE
2483 EAST BAYSHORE ROAD
SUITE 100
PALO ALTO, CA 94303

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P.O. Box 1450
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**LEVINE BAGADE HAN LLP**
**2483 EAST BAYSHORE ROAD, SUITE 100**
**PALO ALTO, CA 94303**

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Edward PEREZ | : | |
| Application No. 11/030,421 | : | DECISION ON PETITION |
| Filed: January 1, 2005 | : | TO WITHDRAW |
| Attorney Docket No. TSSNNZ00304 | : | 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 15, 2008.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Levine Bagade LLP, has been revoked by the assignee of the patent application on August 4, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

The correspondence address of record is the address indicated 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: E. THOMAS WHEELOCK
TISSUE ENGINEERING REFRACTION, INC.
P.O. BOX 61168
PALO ALTO, CA 94306

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KUNZLER & MCKENZIE
8 EAST BROADWAY
SUITE 600
SALT LAKE CITY, UT 84111-7068

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In re Application of
Arthur J. Porter
Application No. 11/030,428
Filed: January 6, 2005
Attorney Docket No. 2026.2.2

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed July 25, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before April 25, 2007. A Notice of Abandonment was mailed on May 24, 2007. On July 25, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to be processed into a patent.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Although the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement will be construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

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12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Soo-Young Park | : | |
| Application No. 11/030,438 | : | DECISION GRANTING PETITION |
| Filed: December 22, 2004 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 51876P760 | : | |

This is a decision on the petition, filed March 26, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

***Petitioner is advised that the issue fee paid on March 6, 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 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment.*

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**INDIANO VAUGHAN LLP**
**ONE N. PENNSYLVANIA STREET**
**SUITE 1300**
**INDIANAPOLIS IN 46204**

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MAY 21 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Hans G. Kloepfer et al | : | |
| Application No. 11/030,441 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | |
| Attorney Docket No. 7410-0027 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the nonfinal rejection mailed August 20, 2008, is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $555.00 extension of time fee submitted with the petition on April 13, 2009, was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the reply received April 13, 2009.

Karen Creasy
Petitions Examiner
Office of Petitions

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**IANDIORIO TESKA & COLEMAN**
**260 BEAR HILL ROAD**
**WALTHAM, MA 02451**

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NOV 20 2009

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|---|---|---|
| In re Application of | : | |
| **Richard M. LLOYD** | : | |
| Application No. 11/030,455 | : | DECISION GRANTING PETITION |
| Filed: January 6, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **RAY-153J (04E131A)** | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 18, 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 16, 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 3641 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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**260 BEAR HILL ROAD**
**WALTHAM, MA 02451**

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| **Richard M. LLOYD** | : |
| Application No. 11/030,455 | : DECISION GRANTING PETITION |
| Filed: January 6, 2005 | : UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. **RAY-153J (04E131A)** | : |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 19, 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 October 16, 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 3641 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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**BANK OF AMERICA PLAZA**
**101 SOUTH TRYON STREET**
**SUIT 4000**
**CHARLOTTE NC 28280-4000**

| | | |
|---|---|---|
| In re Application of | : | |
| Alan Walker | : | |
| Application No. 11/030,463 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. 023895/281686 | : | |

This is a decision on the petition, filed February 4, 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 **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 in a timely manner to the nonfinal Office action mailed June 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 18, 2009.

Applicant files the present petition and states that the nonfinal rejection mailed June 1, 2009, was not received and attesting to the fact that a search of the file jacket and docket records indicates that the nonfinal rejection was not received.

Applicable Law, Rules and MPEP

The MPEP 711.03(c)A, Petition To Withdraw Holding of Abandonment Based on Failure To Receive Office Action, provides

> 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.
> Petitioner 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.
> <u>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, 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.</u>
> 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). (Emphasis supplied).

Analysis/conclusion

Regrettably, the petition is not grantable at this time. The Office requirements for granting a petition to withdraw the holding of abandonment based upon-receipt of an Office communication have been modified. The Office requires a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the U.S.P.O. The statement should establish that the docketing system is sufficiently reliable. In addition, 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.

Accordingly, absent the required evidence to establish nonreceipt of the Office action of June 1, 2009, the petition requesting withdrawal of the holding of abandonment cannot be granted at this time.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $1,620.00 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
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) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

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|---|---|---|
| In re Application of | : | |
| Alan Walker | : | |
| Application No. 11/030,463 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. 023895/281686 | : | |

This is a decision on the renewed petition, filed June 7, 2010, 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 nonfinal Office action mailed June 1, 2009, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 18, 2009.

Petitioner asserts that the Office action dated June 1, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket

and docket records indicates that the Office action was not received;

3. 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, and

4. 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.

*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 2164 for re-mailing the Office action of June 1, 2009. The period for reply will run from the mailing date of the Office action.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions
571-272-3208

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/13/07

TO SPE OF : ART UNIT 3745

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/030467** Patent No.: **7192244**

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** 11/30/07 — All changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

SPE

3745
Art Unit

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Thomas L. Irving
FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.
1300 I Street, N.W.
Washington DC 20005-3315

**COPY MAILED**

JUN 14 2006

**OFFICE OF PETITIONS**

Applicant: Smain et al.
Appl. No.: 11/030,489
Filing Date: January 7, 2005
Title: DETERGENT COSMETIC COMPOSITIONS COMPRISING AT LEAST ONE AMINOSILICONE AND AT LEAST ONE DRAWING POLYMER, AND USES THEREOF
Attorney Docket No.: 05725.1433
Pub. No.: US 2005/0176601 A1
Pub. Date: August 11, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on October 11, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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**ST. ONGE STEWARD JOHNSTON & REENS, LLC**
**986 BEDFORD STREET**
**STAMFORD CT 06905-5619**

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JUL 02 2007

**OFFICE OF PETITIONS**

In re Application of :
James E. Issler :
Application No. 11/030,519 : ON PETITION
Filed: January 6, 2005 :
Attorney Docket No. 03820-P0094B :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 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 extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is April 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $790.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 3677 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

David Bucci
Petitions Examiner
Office of Petitions

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SCHWABE, WILLIAMSON & WYATT, P.C.
PACWEST CENTER, SUITE 1900
1211 S.W. FIFTH AVE.
PORTLAND, OR 97204

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mark D. Yarvis | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626967 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,523 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1367** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MARK FARBER, ESQ.
UNITED STATES SURGICAL
A DIVISION OF TYCO HEALTHCARE GROUP, LP
150 GLOVER AVENUE
NORWALK CT 06856

**COPY MAILED**

MAR 16 2007

**OFFICE OF PETITIONS**

In re Application of :
Paul A. Scirica, et al. :
Application No. 11/030,527 :
Filed: January 6, 2005 :
Attorney Docket No. 2944DIV (203-4027DIV) :

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(6)

This is a decision on the petition, filed January 29, 2006, which is being treated under 37 CFR 1.78(a)(6) to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the non-provisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

Although an updated Filing Receipt, including the priority claim to the prior-filed provisional application, was mailed on June 21, 2005, a corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

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.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

The application is being forwarded to Technology Center AU 3731 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Frances M. Hicks
Petitions Examiner
Office of Petitions

Attachment: Corrected Filing Receipt

cc: CHRISTOPHER G. TRAINOR
CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD – SUITE 225
MELVILLE, NY 11747

CHIEF PATENT COUNSEL
UNITED STATES SURGICAL, A DIVISION
OF TYCO HEALTHCARE GROUP LP
195 MCDERMOTT ROAD
NORTH HAVEN, CT 06473

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July 2005

JOHN POKOTYLO
STRAUB & POKOTYLO
620 TINTON AVENUE
BUILDING B, 2ND FLOOR
TINTON FALLS, NJ 07724-3260

AUG 29 2005

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|---|---|
| In re Application of:<br>MASAHIRO FUKUYAMA ET AL.<br>Serial No.: 11/030541<br>Filed: 06 January 2005<br>Docket: Fukuyama-10 (2004P004301-HIRO-US1) | DECISION ON PETITION TO MAKE SPECIAL UNDER 37 C.F.R. § 1.102(d) |

This is a decision on the petition filed on June 13, 2005, to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d).

The petition to make the application special is **DISMISSED**.

In support of the petition, petition provides: a) the applicable petition fee; b) a statement that a pre-examination search was made; c) copies of the references stated as being most closely related to the claimed subject matter; and d) a discussion of the teaching of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) a petition to make special accompanied by the applicable petition fee; b) all claims are directed to a single invention; c) a statement that a pre-examination search was made, including the search areas; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (c), and (d) are considered to have been met. However, petitioner fails to point out with the particularity required by 37 CFR § 1.111 (b) and (c), how the claimed subject matter is distinguishable over the *each* of the references. Therefore, petitioner fails to meet the requirement of MPEP § 708.02(VIII)(e). Furthermore, petitioner is required to provide a statement that the claims are directed to a single invention, and that petitioner will elect without traverse would a restriction requirement be made.

37 CFR § 1.111 (b) states"[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made."

Petitioner presents a brief discussion of the supplied references. However, a *detailed discussion* of how each of the references overcomes each of the independent claims is required for the petition to be granted. For instance, petitioner has not discussed exactly how the portable disk of the JP 11-353729 reference does not teach the specific features recited in the claims. A mere statement alleging that the claims contain "various features" not found in the relevant prior art is insufficient. Additionally, the discussion of the references must compare each independent claim to each reference. For each reference, the detailed discussion must discuss what features are taught for each independent claim, and what features are not disclosed or taught for each independent claim. Petitioner is required to provide a detailed discussion for *each* reference and *each* independent claim.

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003)).

For the above-mentioned reasons, the petition is dismissed. The application will therefore be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. The essential purpose of the accelerated examination procedure cannot be achieved without discussion of how petitioner believes the claimed invention is distinguished from the prior art; therefore, any resubmission of the petition must provide a detailed discussion of how each of the independent claims is not met by each of the references presented as relevant. Any resubmission must contain a statement that petitioner believes that all claims are directed to a single invention, and a statement that applicant will elect without traverse should the examiner later require restriction to a single invention.

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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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Viviana Braude | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7618976 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/17/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,545 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **560** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**BOSTON SCIENTIFIC NEUROMODULATION CORP.**
**C/O DARBY & DARBY P.C.**
**P.O. BOX 770**
**CHURCH STREET STATION**
**NEW YORK NY 10008-0770**

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APR 03 2008

**OFFICE OF PETITIONS**

In re Application of

**MEADOWS,** Paul M.
Application No. 11/030,546
Filed: January 05, 20005
Attorney Docket No. **20334/0202157-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 February 15, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, ownership transfer, does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

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8TH FLOOR
NEW YORK, NY 10016-0601

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OFFICE OF PETITIONS

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|---|---|
| In re Application of | : |
| Lionel S. Zuckler | : |
| Application No. 11/030,564 | : DECISION ON PETITION |
| Filed: January 6, 2005 | : UNDER 37 CFR 1.137(b) |
| Attorney Docket No. 3667/002 | : |

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 GRANTED.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Application (Notice) mailed March 15, 2005, which required the submission of the statutory basic filing fee of $150; an executed oath or declaration; a $65 surcharge for the late filing of the oath or declaration and filing fee; a $250 search fee; and a $100 examination fee. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 17, 2005 (May 15, 2005, the due date, was a Sunday).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply to the Notice of March 15, 2005, (2) the $750 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of March 15, 2005 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to the Office of Initial Patent Examination for pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

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**JOSEPH S TRIPOLI**
**THOMSON MULTIMEDIA LICENSING INC**
**PO BOX 5312**
**PRINCETON, NJ 08543-5312**

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JAN 0 9 2009

**OFFICE OF PETITIONS**

In re Application of :
Weaver et al. :
Application No. 10/030,601 : ON PETITION
Filed: January 9, 2002 :
Attorney Docket No. RCA 88813 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 12, 2008, to revive the above-identified application.

The petition is not signed by an attorney of record and does not set forth an USPTO registration number. Petitioner should note that all documents submitted before the United States Patent and Trademark Office by a registered patent attorney must contain his/her registration number when acting in a representative capacity under 37 CFR 1.34. Nevertheless, the accompanying amendment does include the signature and registration number for the person signing the petition. Accordingly, the signature of Mr. Paul P. Kiel appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, April 30, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 31, 2008. A Notice of Abandonment was mailed November 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Alicia Kelley at (571) 272-6059.

This application is being referred to Technology Center 2436 for further examination on the merits.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : June 8, 2009

TO SPE OF : ART UNIT 2863
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/030606 /7203099
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**

Magdalene Talley
**Certificates of Correction Branch**
**703-308-9390 ext. 120**

**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:** _____

_____

_____

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SPE

2827
Art Unit

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Paper No.

Mark W. Croll
Illinois Tool Works Inc.
3600 West Lake Avenue
Glenview IL 60026

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| In re Application of | : | |
| Czajka et al. | : | DECISION ON PETITION |
| Application No. 11/030,617 | : | |
| Filed: January 5, 2005 | : | |
| Atty Docket No. 30558 | : | |

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR U.S. PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR §1.137(b) filed May 21, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a reply to the non-final Office action mailed August 30, 2007. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). No reply considered timely filed and no extension of time considered obtained, the application became abandoned effective December 1, 2007. A courtesy Notice of Abandonment was mailed on March 21, 2008.

The petition includes the required reply in the form of an amendment, the statement of unintentional delay and payment of the petition fee. No terminal disclaimer is required.

Technology Center AU 3749 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on petition filed May 21, 2008.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : George Blaine | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593785 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,622 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **559** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 05/17/2010

**Applicant** : George Blaine
**Patent Number** : 7593785
**Issue Date** : 09/22/2009
**Application No** : 11/030,622
**Filed** : 01/05/2005

: 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 **595** 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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Tyco Healthcare Group LP
60 MIDDLETOWN AVENUE
NORTH HAVEN, CT 06473

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Brian Cuevas | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7608082 | : RECALCULATION of PATENT |
| **Issue Date** | : 10/27/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,634 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **966** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MAY - 9 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

| | |
|---|---|
| In re Application of | : |
| Colbert et al. | : |
| Serial No.: 11/030,638 | : SUSPENSION OF ACTION |
| Filed: January 6, 2005 | : |
| Attorney Docket No.: P06399US01 - PHI 1599C | : |

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicants' request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicants request that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

**§ 1.103 Suspension of action by the Office.**

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicants' petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

**The application will be forwarded to the examiner for initial examination in turn.**

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

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**OFFICE OF PETITIONS**

**MERCHANT & GOULD PC**
**P.O. BOX 2903**
**MINNEAPOLIS MN 55402-0903**

In re Application of :
**Man,** Victor et al. :
Application No. 11/030,641 :
Filed: January 04, 2005 :
Attorney Docket No. **163.1801USI1** :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Sarah M. Monfeldt. The undersigned attorney has been withdrawn; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed May 14, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **SARAH M. MONFELDT**
**UNITED STATES PATENT & TRADEMARK OFFICE**
**P.O. BOX 1450**
**ALEXANDRIA, VA 22313-145**

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ECOLAB INC.
MAIL STOP ESC-F7, 655 LONE OAK DRIVE
EAGAN, MN 55121

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Victor Fuk-Pong Man | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7569232 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/04/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,641 | : OF WYETH |
| **Filed** | : 01/04/2005 | : |
| | | : |

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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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

In re Application of:
MAGNUSSEN, RYAN RANDALL, et al.
Application No. 11/030,647
Filed: January 5, 2005
For: **VIDEO-ON-DEMAND EMBEDDED ADVERTISING SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the petition filed August 24, 2006 under MPEP§708.02 VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission is deficient in that it does not comply with (6) above. The references are not fully discussed. Furthermore, there is no discussion how the language of claims 1-20 patentably distinguishes from the references in combination.

Accordingly, the petition is **DENIED**.

Should applicant desire reconsideration, he/she should supplement this petition by supplying the information as outlined above. No further petition fee is required.

Any request for reconsideration must be filed within **TWO MONTHS** of the date of this decision.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

JEFFER, MANGELS, BUTLER & MARMARO, LLP
1900 AVENUE OF THE STARS, 7TH FLOOR
LOS ANGELES CA 90067

In re Application of:
MAGNUSSEN, RYAN RANDALL, et al.
Application No. 11/030,647
Filed: January 5, 2005
For: **VIDEO-ON-DEMAND EMBEDDED ADVERTISING SYSTEM AND METHOD**

DECISION ON PETITION TO MAKE SPECIAL

This is a decision on the renewed petition filed January 22, 2007 under MPEP§708.02 VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's renewed petition taken with the petition filed August 24, 2006 now complies with all items above.

Accordingly, the petition is **GRANTED**.

Kenneth A. Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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NEWARK NJ 07102

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**OFFICE OF PETITIONS**

In re Application of :
Richard Glasson :
Application No. 11/030,649 :
Filed: January 6, 2005 :
Attorney Docket No. 107375-59170 :

ON PETITION

This is in response to the "PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT UNDER 37 CFR 1.181 OR IN THE ALTERNATIVE TO REVIVE THE ABANDONED APPLICATION UNDER 37 CFR §1.137(a) OR 37 CFR §1.137(a), filed April 9, 2008 and supplemented on April 10, 2008.

The petition under 37 CFR 1.181 is **DISMISSED**.
The petition under 37 CFR 1.137(a) is **DISMISSED.**
The petition under 37 CFR 1.137(b) is **GRANTED.**

On August 7, 2007, the Office mailed a non-final Office action, which set a three month shortened statutory period to reply. The application became abandoned on November 8, 2007, for failure to submit a timely response to the August 7, 2007 Office action. On February 29, 2008, the Office mailed a Notice of Abandonment.

In the present petition, petitioner requests that the Office withdraw the holding of abandonment due to nonreceipt of the August 7, 2007 Office action. Specifically, petitioner states that the Office action was not received. Petitioner states that all mail received at Control Products, Inc is delivered by Ms. Worman, who up until a month ago was responsible for segregating the mail and delivering it to Control Product Addressees. A separate mail slot for the Engineering Department existed. Petitioner states that all mail addressed to inventor Glasson were placed in the Engineering Department mail slot. Inventor Glasson states to his recollection he has never failed to receive mail addressed to him. Inventor Glasson reviewed his internal records and the physical area around the Engineering section but the Office action was not located. Inventor Glasson sent out a broadcast e-mail and inquired of mailroom personnel, Angelo DiGiroalmo.

## DISCUSSION OF PETITION TO WITHDRAW THE HOLDING OF ABANDONMENT

A review of the record indicates no irregularity in the mailing of the August 7, 2007 Office action, and in the absence of any irregularity in the mailing, there is a strong presumption that the Office action was properly mailed to the address of record.

As petitioner was a pro-se applicant at the time in question, the Office understands that petitioner may not keep a formal docket record system for his correspondence. Nevertheless, petitioner must provide some sort of showing explaining the manner in which petitioner receives mail from the USPTO, maintains files for patent matters, and treats mail received for such matter. Specifically, petitioner must explain the system for keeping track of patent matters - where petitioner keeps the correspondence; where he writes down due dates; how he knows replies are due, etc. In essence, petitioner must explain how he reminds himself of response due dates and show that the due date for the non-final Office action of August 7, 2007, was not entered into that system. Petitioner should include any available documentary evidence of the mail received, covering a reasonable period after August 7, 2007, to demonstrate nonreceipt of the non-final Office action. Petitioner should also provide the USPTO with copies of any records or other methods, which could serve as a reminder of the due date for a response to an Office action, and where petitioner would have entered the receipt date of the Office action had petitioner received it (for example, a copy of the outside of a file or a calendar maintained by petitioner), if these documents are available. Furthermore, petitioner must include a statement from himself, or any other person at the address who may have handled the Office action, indicating that a search was conducted of the location where the correspondence from the USPTO would have been kept; however, the non-final Office action was not found. Lastly, petitioner must state that he was, in fact, residing at the correspondence address of record for a reasonable time after August 7, 2007; the period when he would have received the non-final Office action.

In the present petition, petitioner provided a statement and a statement from the docket administrator at Gibbons, PC. However, since the August 7, 2007 Office action was not mailed to the Gibbons firm, the statement from the administrator does not help establish inventor Glasson's non receipt of the Office action. Petitioner has failed to provide any statements from the mail room staff at Control Products, Inc, documentary evidence, or an explanation of his method for tracking due dates for filing responses to communications from the USPTO to show he did not receive the non-final Office action. Further petitioner has failed to provide a copy of the internal records referenced in the statement. Inventor Glasson states that he has never failed to receive mail addressed to him. It should also be noted that the Office action was not specifically addressed to inventor Glasson or the Engineering Department. The petition to withdraw the holding of abandonment is **dismissed**.

**PETITION UNDER 37 CFR 1.137(a)**

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the 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).

As to item (3), the Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "avoidable." See, 37 CFR 1.137(a)(3). Decisions on reviving abandoned applications have

adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner has failed to provide evidence of a system used to record an Office action received in at Control Products, Inc. No information has been provided to establish upon the receipt of mail it is entered into a system, calendar, file folder, mail log reminder system or docketing system. Consequently, petitioner cannot contend that there was a reliable system in place. Petitioner has failed to provide any documentary evidence such as a master docket that the non-final Office action was not received. The onus is on petitioner to establish that the Office action was not lost after receipt. Unfortunately, petitioner has not been able to provide sufficient evidence to establish the Office action was not lost after receipt at Control Products, Inc.

Accordingly, a finding of unavoidable delay is not warranted.

**PETITION UNDER 37 CFR 1.137(b)**

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **$770.00 for a small entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition is **GRANTED.**

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of 770; 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. 12/082,237.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema Grant
Petitions Attorney
Office of Petitions

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SUITE 1600
SAN DIEGO CA 92101

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|---|---|---|
| In re Application of | : | |
| Jerry T. Hancock | : | |
| Application No. 11/030661 | : | DECISION ON PETITION |
| Filed: 01/05/2005 | : | UNDER 37 CFR 1.78(a)(6) |
| Attorney Docket No. BJHAN 1031222 | : | |

This is a decision on the petition under 37 CFR 1.78(a)(6), filed October 15, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of the prior-filed provisional application set forth in the concurrently filed amendment.

The petition is **GRANTED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

**(1)** the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in § 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(e) is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that this application is entitled to the benefit of the filing date of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed provisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to 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.

The application is being forwarded to Technology Center AU 2614 for consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to the prior-filed provisional application.

Anthony Knight
Supervisor
Office of Petitions

**ATTACHMENT**: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

| APPLICATION NUMBER | FILING or 371(c) DATE | GRP ART UNIT | FIL FEE REC'D | ATTY.DOCKET.NO | TOT CLAIMS | IND CLAIMS |
|---|---|---|---|---|---|---|
| 11/030,661 | 01/05/2005 | 2614 | 500 | BJHAN 1031222 | 15 | 2 |

**CONFIRMATION NO. 2298**

**CORRECTED FILING RECEIPT**

27111
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

*OC000000028859943*

Date Mailed: 03/27/2008

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)**

Jerry T. Hancock, Sausalito, CA;

**Assignment For Published Patent Application**

Hanler Communications Corporation

**Power of Attorney:** The patent practitioners associated with Customer Number 27111

**Domestic Priority data as claimed by applicant**

This appln claims benefit of 60/534,559 01/06/2004

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 03/14/2008

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/030,661**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No
**** SMALL ENTITY ****

**Title**

Multi-mode, multi-channel psychoacoustic processing for emergency communications

**Preliminary Class**

379

## PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

## LICENSE FOR FOREIGN FILING UNDER

## Title 35, United States Code, Section 184

## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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**GORDON & REES LLP**
**101 WEST BROADWAY**
**SUITE 1600**
**SAN DIEGO CA 92101**

COPY MAILED

JAN 14 2010

| | | |
|---|---|---|
| In re Application of<br>Jerry T. Hancock<br>Application No. 11/030,661<br>Filed: January 5, 2005<br>Attorney Docket: BJHAN 1031222 | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO WITHDRAW<br>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, 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 will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which 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 replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by John L. Haller, on behalf of all practitioners of record who are associated with Customer Number 27111.

All attorneys/agents associated with the Customer Number 27111 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 September 21, 2009, that requires a reply from the applicant.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6059. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

A. Kelley

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: JERRY T. HANCOCK
6 SPRING HILL CIRCLE
SAUSALITO, CA 94965

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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| APPLICATION NUMBER | FILING OR 371(C) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/030,661 | 01/05/2005 | Jerry T. Hancock | |

**CONFIRMATION NO. 2298**

**POWER OF ATTORNEY NOTICE**

27111
GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

*OC000000039679793*

Date Mailed: 01/15/2010

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/17/2009.

- 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.

/atkelley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Mark D. Goodwin | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7657151 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,692 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1430** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**GREENSFELDER HEMKER & GALE PC**
**SUITE 2000**
**10 SOUTH BROADWAY**
**ST LOUIS MO 63102**

MAILED

MAY 07 2009

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| **FELDMAN,** THEODORE P. et al. | : | |
| Application No. 11/030,694 | : | DECISION ON PETITION |
| Filed: January 05, 2005 | : | TO WITHDRAW |
| Attorney Docket No. **NEO-P003** | : | 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 07, 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 Dennis Fernandez on behalf of all attorneys of record who are associated with customer No. 22807. All attorneys/agents associated with the Customer Number 22807 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **THEODORE PHILIP**
**1282 8TH AVE**
**SAN FRANCISCO CA 94122**

cc: **NEOSONIK**
**1032 IRVING STREET**
**SUITE 605**
**SAN FRANCISCO CA 94122**

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Alexandria, VA 22313-1450
www.uspto.gov

FERNANDEZ & ASSOCIATES, LLP
PO BOX D
MENLO PARK, CA 94025-6204

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of
Theodore Philip Feldman et al
Application No. 11/030,698
Filed: January 5, 2005
Attorney Docket No. NEO-P004

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 7, 2009.

The request is **APPROVED**.

The request was signed by Dennis Fernandez on behalf of all attorneys of record who are associated with customer No. 22877.

Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the assignee at the first address indicated below.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Neosonik
1032 Irving Street, Suite 605
San Francisco, CA 94122

cc: Dennis S. Fernandez
1047 El Camino Real, Ste 201
Menlo Park, CA 94025

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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JC PATENTS, INC.
4 VENTURE, SUITE 250
IRVINE, CA 92618

COPY MAILED

JUL 27 2005

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Huang et al. :
Application No. 11/030,701 :
Filed: January 5, 2005 :
Attorney Docket No. JCLA14375 :

This is a decision on the petition filed April 27, 2005, which is being treated as a petition under 37 CFR 1.183.

The petition is **granted**.

Facts:

The second inventor is a resident of Taiwan.

Taiwanese do not use the 26 letter alphabet used in the United States.

Two main systems exist to translate/romanize Taiwanese words or names. The systems are the Wade-Giles system and the Pinyin system.

The second inventor's name was listed as "I-Jeng Chen." The inventor signed using the name "Yi-Jen Chen." The name "I" in the Wade-Giles system is equivalent to the name "Yi" in the Pinyin system. The Office has been unable to determine if Jen and Jeng are equivalent names.

The error in the name is the result of a "mistranslation" rather than a misspelling/typographical error.

Analysis:

Arguments supporting a need for a petition under 37 CFR 1.48 do exist since this is not a case which simply involves the misspelling of an inventor's name. Rather than address this issue, the Office has chosen to treat the petition as a petition filed under 37 CFR 1.183. The Office hereby holds that, to the extent any Office rules indicate the inventor's name should not be corrected at this time, the rules are hereby waived.

The name of the inventor will be changed to "Yi-Jen Chen." A copy of a new filing receipt is attached.

As of November 1, 2004, the fee for petitions under 37 CFR 1.183, as well as the fee for petitions under 37 CFR 1.182, was increased to $400.[1] Therefore, petitioner's deposit account has been charged $400 for the petition fee rather than $130.

---

[1] See Revision of Patent Fees for Fiscal Year 2005, 69 Fed. Reg. 52604 (Aug. 27, 2004) and Changes to Support Implementation of the United States Patent and Trademark Office 21st Century Strategic Plan, 1287 Off. Gaz. Pat. Office 67 (Oct. 12, 2004).

Telephone inquiries should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

Attached: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
PO BOX 14329
RESEARCH TRIANGLE PARK, NC 27709

COPY MAILED
OCT 24 2006
OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Eshraghi et al | : | |
| Application No. 11/030,703 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO MAKE SPECIAL UNDER |
| Attorney Docket No. 4172-125 | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed June 7, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The petition states, "The electrochemical cells of the invention include fuel cell embodiments having the potential to achieve practical implementation as power supplies in automotive/vehicular and other (e.g., home, consumer products, industrial, emergency management, etc.) applications." The statement lacks any specifics about <u>how</u> the invention materially contributes to item (B), above. Without specific details about how the invention functions, the above statements are inadequate to establish for the record that the invention "materially contributes to the more efficient utilization and conservation of energy resources." The contribution of petitioner's invention does not rise to the level intended by the Rule.

Further, the materially standard does not permit an applicant to speculate as to how an invention could hypothetically be more efficient and conserve more energy resources.

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 hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 1745 for action in its regular turn.

Amelia Au
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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INTELLECTUAL PROPERTY / TECHNOLOGY LAW
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RESEARCH TRIANGLE PARK, NC 27709

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FEB 19 2009

OFFICE OF PETITIONS

In re Application of

Ray R. Eshraghi et al
Application No. 11/030,703
Filed: January 6, 2005
Attorney Docket No. 4172-125

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the renewed petition under 37 CFR 1.102(c) (2)(ii), filed July 25, 2007, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence to support how the invention would materially contribute to (B) the more efficient utilization and conservation of energy resources. While the petition states that "The present invention overcomes such deficiency by providing fiber-reinforced catalytic structures that are conformable to the small radius and curved contour of microfibrous fuel cells of exceedingly small size. The invention enables the catalyst matrix to be prepared independently of and away from the polymeric at conditions that are typically hostile to polymeric materials" this is not the correct material showing. For the petition to be granted special status, petitioner must provide a showing of how petitioner's instant invention materially contributes to the conservation of energy resources. Petitioner's statements are inadequate to establish that the invention "materially contributes to the conservation of energy resources."

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to 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 1795 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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HAVERSTOCK & OWENS LLP
162 N WOLFE ROAD
SUNNYVALE, CA 94086

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : James W. Thomas | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7633033 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,710 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/05/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

**INTELLECTUAL PROPERTY GROUP**
**FREDRIKSON & BYRON, P.A.**
**200 SOUTH SIXTH STREET, SUITE 4000**
**MINNEAPOLIS MN 55402**

**COPY MAILED**

MAR 2 6 2009

**OFFICE OF PETITIONS**

In re Application of

**GOTTLIEB,** Roberta et al.
Application No. 11/030,717
Filed: January 06, 2005
Attorney Docket No. **54296.1.6.1**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 12, 2009.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no reason(s) selected in the boxes. The request cannot be approved because there is no indication that acts (1) and (3) noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **KNOBBE MARTENS OLSON & BEAR LLP**
**2040 MAIN STREET**
**FOURTEENTH FLOOR**
**IRVINE, CA 92614**

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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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/05/2010

| | | |
|---|---|---|
| **Applicant** | : Roberta Gottlieb | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7615548 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/030,717 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MAY 16 2006

MCKEE, VOORHEES & SEASE, P.L.C.
ATTN:,PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

| | |
|---|---|
| In re Application of | : |
| Charles Cunnyngham | : |
| Serial No.: 11/030,734 | : SUSPENSION OF ACTION |
| Filed: January 6, 2005 | : |
| Attorney Docket No.: P06398US01-PHI 1598C | : |

This is in reply to the petition under 37 CFR 1.103 to suspend action on this application at applicant's request for a period of six months, filed March 30, 2006.

A review of the file history shows that this is an unexamined application. Applicant requests that action on this application be suspended for six months in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee.

**§ 1.103 Suspension of action by the Office.**

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:
(1) A showing of good and sufficient cause for suspension of action; and
(2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

Applicant's petition requests suspension in view of the fact that the claims in this case are substantially similar to claims in cases currently on appeal with the same Assignee. No indication is given as to when these cases were filed, their status or approximate date of decision or resolution, nor how any decision would affect prosecution or patentability in this application. Also, in the instant case, no issues have as yet been developed and the issues ultimately developed may not be the same as those at the Board of Appeals. Further, it is not the general practice of the Office to suspend prosecution in unexamined applications except in extraordinary circumstances. None have been set forth in the petition. In summary, no showing of good or sufficient cause has been made.

In view of the above reason the petition is **DENIED**.

**The application will be forwarded to the examiner for initial examination in turn.**

Should there be any questions with respect to this action, please contact Marianne C. Seidel, by mail addressed to: Director, Technology Center 1600, P. O. BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the Office general facsimile number, 571-273-8300.

George C. Elliott

George Elliott
Director, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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**STALLMAN & POLLOCK LLP**
**353 SACRAMENTO STREET**
**SUITE 2200**
**SAN FRANCISCO CA 94111**

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JUN 1 7 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,038,850 | : | |
| Issue Date: May 2, 2006 | : | |
| Application No. 11/030,735 | : | NOTICE |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. TWI-15120 | : | |

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 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.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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| APPL NO. | FILING OR 371 (c) DATE | ART UNIT | FIL FEE REC'D | ATTY.DOCKET NO | DRAWINGS | TOT CLMS | IND CLMS |
|---|---|---|---|---|---|---|---|
| 11/030,749 | 11/16/2004 | 3671 | 460 | 14556.2US01 | 13 | 15 | 1 |

**CONFIRMATION NO. 3927**

**UPDATED FILING RECEIPT**

*OC000000015476701*

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

Date Mailed: 03/16/2005

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)**

Li Min Liu, Beijing, CHINA;

**Power of Attorney:** The patent practitioners associated with Customer Number **23552**.

**Domestic Priority data as claimed by applicant**

**Foreign Applications**

CHINA 200310105107.4 11/17/2003

**If Required, Foreign Filing License Granted:** 02/15/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/030,749**

**Projected Publication Date:** 06/23/2005

**Non-Publication Request:** No

**Early Publication Request:** No

**** SMALL ENTITY ****

**Title**

Illuminant imitation plant and method of making the same

**Preliminary Class**

056

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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**THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP**
**600 GALLERIA PARKWAY, S.E.**
**STE 1500**
**ATLANTA, GA 30339-5994**

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SEP 23 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Mitchell A. Hughes | : | |
| Application No. 11/030,768 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | |
| Docket No. 600402-1020 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 5, 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 1, 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 February 2, 2008. A Notice of Abandonment was mailed May 29, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $770.00, and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3635 for appropriate action by the Examiner in the normal course of business on the reply received.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/22/10

TO SPE OF : ART UNIT 2828

SUBJECT : Request for Certificate of Correction for Appl. No.: 11030771 Patent No.: 7305019

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:** 20041025697 5 A1 12/2004 Gao et al has not been approved because it has wrong publication number.

MINSUN OH
PRIMARY EXAMINER

AU 2828

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.:** _____

**DATE** : 03/18/10

**TO SPE OF** : ART UNIT 2828

**SUBJECT** : Request for Certificate of Correction for Appl. No.: 11030771 Patent No.: 7305019

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:** _____

MINSUN OH HARVEY
PRIMARY EXAMINER
**SPE**

2828
**Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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BALZAN INTELLECTUAL PROPERTY LAW PC
674 COUNTY SQUARE DRIVE
SUITE 105
VENTURA CA 93003

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MAY 11 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Patent No. 7,109,823 | : | |
| Issue Date: September 19, 2006 | : | |
| Application No. 11/030,789 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. HRL/011-04 | : | |

This is a decision on the "PETITION TO REQUEST CERTIFICATE OF CORRECTION PURSUANT TO 37 C.F.R. 3.81(b)", filed April 30, 2007. The petition was recently forwarded to the Office of Petitions for consideration.

The petition is **GRANTED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.[1] However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

---

[1] See 37 CFR 3.81.

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).[2]

The file is being forwarded to the Certificate of Corrections Branch for issuance of the requested Certificate of Correction.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

[2] MPEP 307.

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Alexandria, VA 22313-1450
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SEP 15 2009

**OFFICE OF PETITIONS**

BRINKS HOFER GILSON & LIONE /
CME
P.O. BOX 10395
CHICAGO IL 60610

| | |
|---|---|
| In re Patent No. 7,426,487 | |
| Glinberg et al. | |
| Issue Date: September 16, 2008 | |
| Application No. 11/030,796 | DECISION ON REQUEST FOR |
| Filed: January 7, 2005 | RECONSIDERATION OF |
| Attorney Dkt. No. 4672/417 | PATENT TERM ADJUSTMENT |
| Title: System and Method For | |
| Efficiently Using Collateral | |
| For Risk Offset | |

This is in response to the "Request For Reconsideration of Patent Term Adjustment" filed October 27, 2008. This petition is properly treated under 37 CFR 1.705(d). Patentees request that the patent term be adjusted from 535 days to 783 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into US Patent No. 7,426,487 with a patent term adjustment of 535 days. This request for reconsideration of patent term adjustment (including the required fee) was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment. Patentees maintain they are entitled to an additional 253 days minus 5 days of overlap for a total of 248 days for over three year delay pursuant to 37 CFR 1.703(b).

Thus, patentees request that the determination of patent term adjustment be increased by 248 days to a total of seven hundred eighty-three (783) days (248+535).

Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in §1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term*

*Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 7, 2005 to September 16, 2008. This 253 days of pendency over three years is the relevant period for considering overlap. 609 days of patent term adjustment were accorded for Office delay pursuant to 37 CFR §§1.702(a)(1) and (2). Entry of both 253 days pursuant to 37 CFR §1.702(b) for the Office taking in excess of three years to issue the patent and 609 days pursuant to 37 CFR §1.702(a) for Office examination delay is neither permitted nor warranted. The Office did not delay 609 days and then another 253 days. The greater period, 609 days, is the actual number of days issuance of the patent was delayed by the Office.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment.

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 535 days (609-74).

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Charlema Grant, Petitions Attorney, at (571) 272-3215.

Christina Tartera Donnell for

Kery Fries
Senior Legal Advisor Attorney
Office of Patent Legal Administration

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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JAN 30 2008

OFFICE OF PETITIONS

**VEDDER PRICE KAUFMAN**
**& KAMMHOLZ**
**222 N. LASALLE STREET**
**CHICAGO, IL 60601**

| | | |
|---|---|---|
| In re Application of | : | |
| William DUBON, et al | : | |
| Application No. 11/030,807 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 34271.00.0020 | | 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, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the attorneys of record were not appointed by customer number.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions 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

cc: GREENBERG TRAURIG, LLP
250 EAST WISCONSIN AVENUE,
SUITE 1800
MILWAUKEE, WI 53202

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**BOYLE FREDRICKSON NEWHOLM**
**STEIN & GRATZ**
**250 E. WISCONSIN AVENUE**
**SUITE 1030**
**MILWAUKEE, WI 53202**

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Scott J. Thorson et al | : | DECISION ON PETITION |
| Application No. 11/030,820 | : | TO MAKE SPECIAL |
| Filed: January 7, 2005 | : | 37 CFR 1.102(d) |
| Attorney Docket No. 1196.002 | : | |

This is a decision on the petition under 37 CFR §1.102(d), filed June 6, 2005, to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in M.P.E.P. § 708.02, Section II: Infringement.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringingdevice or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringingdevice, product, or method with the claims of the application has been made, and that, in his other 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.

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.

As authorized, the $130 fee required by 37 CFR 1.102(d) will be charged to petitioner's Deposit Account No. 50-1170.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examinationor status of the application should be directed to the Technology Center at (571) 272-2600.

This matter is being referred to the Technology Center Art Unit 3714 for expedited prosecution.

David Bucci for
Petitions Examiner
Office of Petitions

cc: BOYLE FREDRICKSON NEWHOLM
STEIN & GRATZ
250 PLAZA, SUITE 1030
150 EAST WISCONSIN AVENUE
MILWAUKEE, WI 53202

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WORCESTER, MA 01609-2797

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OFFICE OF PETITIONS

In re Application of :
Ronald Lavigne :
Application No. 11/030,828 : ON PETITION
Filed: January 7, 2005 :
Attorney Docket No. 006-460-300 :

This is a decision in response to the petition, filed May 8, 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 April 6, 2006, 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 December 18, 2006. In response, on May 8, 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 $750; 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 1724 for consideration of the response filed May 8, 2007.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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| | | |
|---|---|---|
| In re Application of | : | |
| Dmitriy Glinberg et al. | : | DECISION ON APPLICATION |
| Application No. 11/030,833 | : | FOR |
| Filed: January 7, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. 4672/418 | : | |

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed December 30, 2008. Applicants request that the initial determination of patent term adjustment be corrected from five hundred twenty-one (521) to five hundred thirty (530) 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 five hundred thirty **(530)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On October 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 521 days. On December 30, 2008, applicants timely[1] submitted an application for patent term adjustment (with required fee). Applicants request correction of the PTA to 530 days. Applicants dispute the reduction of 9 days for the filing of an Information Disclosure Statement (IDS) on August 15, 2008. Applicants argue that the IDS included a 1.704(d) statement and thus, should not be treated as a supplemental submission under 37 C.F.R. § 1.704(c)(8).

Applicants state that the application is not subject to any terminal disclaimers.

A review of the IDS as filed on August 15, 2008 confirms that it included a § 1.704(d) statement. Accordingly, no reduction pursuant to 1.704(c)(8) was warranted. The reduction of 9 days has been removed.

---

[1] The Issue Fee payment was received on January 12, 2009.

In view thereof, the correct determination of PTA at the time of the mailing of the notice of allowance is FIVE HUNDRED THIRTY (530) 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of adjusted PAIR calculation

Day : Friday
Date: 2/13/2009

# PALM INTRANET

Time: 21:25:03

| PTA Calculations for Application: 11/030833 | | | |
|---|---|---|---|
| Application Filing Date: | 01/07/2005 | PTO Delay (PTO): | 604 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 83 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 530 |
| PTO Delay Adjustment: | 9 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 88 | 02/13/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | 9 | | |
| 72 | 10/28/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 71 | 10/27/2008 | ISSUE REVISION COMPLETED | | | |
| 70 | 08/15/2008 | REFERENCE CAPTURE ON IDS | | | |
| 69 | 08/15/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 9 | 50 |
| 68 | 09/07/2008 | ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING | | | |
| 66 | 09/07/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 65 | 08/19/2008 | DOCUMENT VERIFICATION | | | |
| 64 | 08/19/2008 | EXAMINER'S AMENDMENT COMMUNICATION | | | |
| 63 | 08/13/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 62 | 08/16/2008 | NOTICE OF ALLOWABILITY | | | |
| 61 | 08/15/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 60 | 08/15/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 54 | 08/06/2008 | PRELIMINARY AMENDMENT | | | |
| 53 | 08/11/2008 | DATE FORWARDED TO EXAMINER | | | |
| 52 | 08/06/2008 | RCE- AF PROCESSED | | | |
| 51 | 08/11/2008 | DATE FORWARDED TO EXAMINER | | | |
| 50 | 08/06/2008 | REQUEST FOR CONTINUED EXAMINATION (RCE) | | | |
| 49 | 08/11/2008 | DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA) | | | |
| 48 | 08/06/2008 | WORKFLOW - REQUEST FOR RCE - BEGIN | | | |

| | | | | | |
|---|---|---|---|---|---|
| 47 | 07/23/2008 | MAIL ADVISORY ACTION (PTOL - 303) | | | |
| 46 | 07/21/2008 | ADVISORY ACTION (PTOL-303) | | | |
| 45 | 07/16/2008 | DATE FORWARDED TO EXAMINER | | | |
| 44 | 07/14/2008 | AMENDMENT AFTER FINAL REJECTION | | | |
| 43 | 05/14/2008 | MAIL FINAL REJECTION (PTOL - 326) | | | |
| 42 | 05/12/2008 | FINAL REJECTION | | | |
| 41 | 01/24/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 40 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 39 | 01/29/2008 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 38 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | 74 | 35 |
| 37 | 04/14/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 36 | 02/27/2008 | DATE FORWARDED TO EXAMINER | | | |
| 35 | 01/31/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 34 | 01/29/2008 | REFERENCE CAPTURE ON IDS | | | |
| 33 | 01/29/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 32 | 01/29/2008 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 31 | 11/01/2007 | MAIL NON-FINAL REJECTION | 604 | | -1 |
| 30 | 10/29/2007 | NON-FINAL REJECTION | | | |
| 29 | 01/07/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 28 | 05/01/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 27 | 12/05/2006 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 26 | 01/04/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 25 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 24 | 10/16/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 23 | 02/22/2007 | REFERENCE CAPTURE ON IDS | | | |
| 22.7 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 22 | 02/22/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |

| | | | | | |
|---|---|---|---|---|---|
| 21 | 01/04/2007 | REFERENCE CAPTURE ON IDS | | | |
| 20.7 | 01/04/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 20 | 01/04/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 19 | 01/07/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 18 | 12/05/2006 | REFERENCE CAPTURE ON IDS | | | |
| 17.7 | 12/05/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 17 | 12/05/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 16 | 10/05/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 15 | 09/22/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 14 | 09/12/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 13 | 08/03/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 05/01/2005 | REFERENCE CAPTURE ON IDS | | | |
| 11.7 | 01/07/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 11 | 01/07/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 10 | 06/27/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 9 | 05/01/2006 | REFERENCE CAPTURE ON IDS | | | |
| 8.7 | 05/01/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 8 | 05/01/2006 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 7 | 08/10/2005 | RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION | | | |
| 6 | 05/10/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 5 | 05/10/2005 | APPLICATION IS NOW COMPLETE | | | |
| 4 | 01/07/2005 | PGPUBS NONPUB REQUEST | | | |
| 3 | 05/05/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 05/05/2005 | CASE CLASSIFIED BY OIPE | | | |
| 1 | 01/07/2005 | INITIAL EXAM TEAM NN | | | |

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**EXPLANATION OF PTA CALCULATION**

**EXPLANATION OF PTE CALCULATION**

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OFFICE OF PETITIONS

In re Patent No. 7,509,275
Issued: March 24, 2009
Application No. 11/030,833
Filed: January 7, 2005
Attorney Docket No. 4672/418

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed May 8, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred twenty-two (522) days to seven hundred thirty-four (734) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On March 24, 2009, the above-identified application matured into US Patent No. 7,509,275 with a patent term adjustment of 522 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 734 days, which includes 212 days of patent term adjustment due to exceeding three year pendency and 604 days due to USPTO delay in prosecution."

The 212-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 7, 2005, and the RCE being filed on August 6, 2008, three years and 212 days later. Patentees assert that in addition to this 212-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 604 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 82 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 (212 days) and the period of Examination Delay (604 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 816 days, which is the sum of the period of Three Year Delay (212 days) and the period of Examination Delay (604 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 734 days (604 + 212 reduced by 0 overlap – 82 applicant delay)).

The Office agrees that as of the filing of the RCE on August 6, 2008, the application was pending three years and 212 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 604 days is correct. At issue is whether patentees should accrue 212 days of patent term adjustment for the Office taking in excess of three years to issue the patent under 37 CFR 1.702(b), as well as 604 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 212 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June

21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt

Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b) (I) (B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b) (2) (A) is the entire period during which the application was pending before the Office until the filing of the RCE, January 7, 2005 to August 6, 2008. During that time, the issuance of the patent was delayed by 604 days, not 604 + 212 days. The Office took 14 months and 604 days to issue a first Office action. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 604 days of Office delay and the 82 days of applicant delay and the time allowed within the timeframes for processing and examination, at the time of filing of the RCE, the application was pending three years and 212 days until the filing of the RCE. The Office did not delay 604 days and then an additional 212 days. Accordingly, 604 days of patent term adjustment (not 604 and 212 days) was properly entered since the period of delay of 212 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 604 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. 604 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 212 days over three years.

---

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

Accordingly, at issuance, the Office properly entered no additional days of patent term pursuant to 37 CFR 1.702(b).

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Christina Tartaria Donnell for

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

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**PHILIP S. JOHNSON**
**JOHNSON & JOHNSON**
**ONE JOHNSON & JOHNSON PLAZA**
**NEW BRUNSWICK NJ 08933-7003**

**MAILED**

MAY 20 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Constantine Georgiades et al | : | |
| Application No. 11/030,846 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. PCH0820USCIP1 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and a previously filed amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 2, 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 1612 for appropriate action by the Examiner in the normal course of business on the reply received April 6, 2009.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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www.uspto.gov

BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

**MAILED**

MAY 12 2009

**OFFICE OF PETITIONS**

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| In re Patent No. 7,428,508 | : |
| GLINBERG et al. | : |
| Issue Date: September 23, 2008 | : DECISION ON REQUEST FOR |
| Application No. 11/030,869 | : RECONSIDERATION OF |
| Filed: January 7, 2005 | : PATENT TERM ADJUSTMENT |
| Attorney Docket No. 4672/421 | : |

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed October 27, 2008, requesting that the patent term adjustment determination for the above-identified patent be corrected from five hundred seventy-five (575) days to eight hundred eight (808) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 23, 2008, the above-identified application matured into Patent No. 7,428,508 with a patent term adjustment of 575 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, a PTO delay under 35 U.S.C. 154(b)(1)(A) overlaps with a delay under 35 U.S.C. 154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that a portion of the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), 233 of 260 days, does not overlap with the 649-day period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), as these periods do not occur on the same days. Thus, patentees request that the determination

of patent term adjustment be increased by 233 days to a total of 808 days.

The 260-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 7, 2005, and the patent having been issued on September 23, 2008, three years and 260 days later. Patentees assert that in addition to this 260-day period, patentees are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), totalling 649 days. This 649-day period is the sum of:

- a period of delay of 622 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 § 1.702(a)(1); and,
- a period of delay of 27 days for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2).

A nonfinal Office action was mailed November 19, 2007, 14 months and 622 days after the application was filed on January 7, 2005. Additionally, the Office did not respond to the reply of January 31, 2008, until June 27, 2008, 4 months and 27 days after the date on which the reply was filed.

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not disagree with the period of reduction of 74 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 (260 days) and the period of Examination Delay (649 days) to the extent that these periods of delay are not overlapping. Patentees contend that the period of delay of 27 days for the Office's failure to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, (June 1,

2008 to June 27, 2008) overlaps with the Three Year Delay period (January 8, 2008 to September 23, 2008).

Accordingly, patentees submit that the total period of Office Delay is 808 days, which is the sum of the period of Three Year Delay (260 days) and the period of Examination Delay (649 days), reduced by the period of overlap (27 days). Thus, patentees assert entitlement to a patent term adjustment of 808 days (260 + 649 reduced by 27 overlap - 74 for applicant delay).

The Office agrees that the actions detailed above were not taken within the specified time frames, and thus, the entry of period of adjustment for examination delay of 649 days is correct. At issue is whether patentees should accrue 233 days of patent term adjustment (adjusted for overlap, per patentees' calculations) for the Office taking in excess of three years to issue the patent, as well as 649 days for Office failure to take certain actions within specified time frames (or examination delay).

The Office contends that 260 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, 37 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent

term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of applicants. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during

which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than three-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. It

[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).

is incorrect to treat the relevant period as starting on January 7, 2008, 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, January 7, 2005, to the date the patent issued on September 23, 2008. Prior to the issuance of the patent, 649 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 260 days for Office delay in issuing the patent overlap with the 649 days of Office delay. During that time, the issuance of the patent was delayed by 649 days, not 649 + 260 days.

The Office took 14 months and 649 days to issue a first Office action. Additionally, the Office took 4 months and 27 days to respond to the reply of January 31, 2007. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 649 days of Office delay and the 74 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 260 days. The Office did not delay 649 days and then an additional 260 days. Accordingly, 649 days of patent term adjustment (not 649 and 260 days) was properly entered because the period of delay of 260 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 649 days attributable to grounds specified in 37 CFR 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. Thus, 649 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 260 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Paper No.: _____

DATE : 5/5/09

TO SPE OF : ART UNIT 3691

SUBJECT : Request for Certificate of Correction for Appl. No.: 11030869 Patent No.: 7428508 B2

Please respond to this request for a certificate of correction within 7 days.

**FOR IFW FILES:**

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

**FOR PAPER FILES:**

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**
**You can fax the Directors/SPE response to 571-270-9990**

*LAMONTE NEWSOME*
**Certificates of Correction Branch**

**703-308-9390 ext. 112**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

- [x] **Approved** — All changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

**Comments:** _____

SPE _____ Art Unit 6/3/2009

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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : Hae-joo Jeong | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593474 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,878 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/10/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **864** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.: X**

DATE : February 25, 2008

TO SPE OF : ART UNIT 2618

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/030882 Patent No.: 7260377 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

**Certificates of Correction Branch (CofC)**
**South Tower - 9A22**
**Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

*LAMONTE NEWSOME*
**Certificates of Correction Branch**
**703-308-9390 ext. 112**

**Thank You For Your Assistance**

**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

- ☑ **Approved** — **All** changes apply.
- ☐ **Approved in Part** — Specify below which changes **do not** apply.
- ☐ **Denied** — State the reasons for denial below.

**Comments:** _____

N. N. M.
**SPE**

2618
**Art Unit**

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Raj Bawa
Bawa Biotechnology Consulting, LLC
21005 Starflower Way
Ashburn, VA 20147

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| In re Application of<br>S. George Aburdeineh, et. al.<br>Application No. 11/030,886<br>Filed: January 10, 2005<br>Attorney Docket No. BAWA/12-04/PA | :<br>:<br>:<br>:<br>: | DECISION ON PETITION<br>TO WITHDRAW FROM<br>RECORD |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 37 CFR 10.40, filed August 27, 2009.

The request is **NOT APPROVED**.

It is noted that practitioner is requesting to withdraw himself as attorney/agent for the above application and the practitioners (with registration numbers) of record listed on the attached paper(s). However, it should be noted that there is no additional sheet(s) of paper attached to the present request containing any attorney/agents registration numbers. Therefore, the request cannot be granted at this time.

This application became abandoned for failure to timely respond to the Office action mailed May 12, 2009. A Notice of Abandonment was mailed on November 18, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: S. George Aburdeineh
2363 Great Falls Street
Falls Church, VA 22046

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**OFFICE OF PETITIONS**

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| In re Application of | : | |
| Yun et al. | : | |
| Application No. 11/030888 | : | |
| Filing or 371(c) Date: 01/10/2005 | : | |
| Attorney Docket Number: 0630-2199PUS1 | : | ON PETITION |

This is a decision on the correspondence entitled "Submission to Avoid Holding of Abandonment," filed January 26, 2007. The correspondence is properly treated under 37 CFR 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed July 6, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on August 7, 2006. The mailing of this Decision precedes the mailing of a Notice of Abandonment.

The present petition

Applicant files the present and asserts that a timely reply to the Office communication was filed on August 7, 2006. In support of this assertion, Applicant encloses a copy of the reply, and a copy of a return-receipt postcard acknowledging receipt by this Office of the reply on August 7, 2006.

Analysis and conclusion

A review of the reply reveals that it includes an authorization to charge extension of time fees.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

The extension of time fee has been charged to Applicant's deposit account, 02-2448, as authorized in the petition.

The application will be referred to Technology Center Art Unit 3744 for processing of the Reply.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

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| **Applicant** | : Stephen R. Forrest | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655322 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,901 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/10/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **768** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANADA

Mail Date: 04/20/2010

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|---|---|---|
| **Applicant** | : M. Khaledul Islam | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7646753 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/030,917 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/10/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **527** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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CANADA

Mail Date: 05/17/2010

**Applicant** : M. Khaledul Islam
**Patent Number** : 7646753
**Issue Date** : 01/12/2010
**Application No** : 11/030,917
**Filed** : 01/10/2005

: 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 **612** 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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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, NW
WASHINGTON, DC 20005-3096

Mail Date: 05/03/2010

| | | |
|---|---|---|
| **Applicant** | : Satoe Miyata | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7626229 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/01/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/030,945 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/10/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **364** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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**SHLESINGER, ARKWRIGHT & GARVEY LLP**
**SUITE 600**
**1420 KING STREET**
**ALEXANDRIA VA 22314**

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FEB 2 0 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Johannes Schneider et al | : | |
| Application No. 11/030,949 | : | DECISION GRANTING PETITION |
| Filed: January 10, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 7403 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 19, 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 May 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 the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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Paper No.

Jonathan E. Grant
2107 HOUNDS RUN PLACE
Sliver Spring MD 20906

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AUG 19 2008

In re Application of :
Ritota et al. : DECISION ON PETITION
Application No. 11/030,959 :
Filed: January 10, 2005 :
Title: AC/DC/DCC MODEL TRAIN:
ON BOARD SOUND MODULE WITH :
WIRELESS CONTROL :

This is in response to the "RESPONSE & REQUEST FOR REVIVAL" filed April 18, 2008. As no fee for revival accompanied this request, this paper is properly treated as a no-fee Petition to Withdraw Holding of Abandonment under 37 CFR 1.181.

The petition is **DISMISSED**.

Any request for reconsideration pursuant to § 1.181 must be filed within **TWO (2) MONTHS** of the date of this decision in order to be considered timely. See 37 CFR §1.181(f). Extensions of time under §1.136(a) are not permitted.

The above-identified application became abandoned for failure to file a response to the NOTICE OF NON-COMPLIANT AMENDMENT mailed August 13, 2007. This Office communication set a one-month period for reply with extensions of time obtainable under § 1.136(a). No response was received and no extension of time was obtained. Accordingly, the application became abandoned effective September 14, 2007. A courtesy Notice of Abandonment was mailed on March 20, 2008.

In response, applicants timely filed the instant petition. Therein, the attorney for applicants affirmed under penalty of perjury that he never received the letter of August 13, 2007 cited in the Notice of Abandonment.

A review of the application file reveals no irregularities in the mailing of the Notice of Non-compliant Amendment mailed August 13, 2007. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. In the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome this presumption. The following showing is required:

> Practitioner 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 petition includes an assertion by the attorney of record that the Notice was not received. However, the assertion is not supported by any of the evidence indicated above. Where the Notice was properly mailed, a petition to withdraw the holding of abandonment cannot be granted without persuasive evidence that the Notice was not received at the correspondence address.

If applicants cannot provide persuasive evidence of non-receipt of the Notice, applicants may submit a petition to revive pursuant to § 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
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Paper No.

Jonathan E. Grant
2107 HOUNDS RUN PLACE
Sliver Spring MD 20906

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JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
Ritota et al. : DECISION ON PETITION
Application No. 11/030,959 :
Filed: January 10, 2005 :
Title: AC/DC/DCC MODEL TRAIN:
ON BOARD SOUND MODULE WITH :
WIRELESS CONTROL :

This is in response to the "RECONSIDERATION FOR PETITION TO REVIVE" filed September 17, 2008. As no fee for revival accompanied this request and as no fee accompanied the initial petition filed April 18, 2008, this paper is properly treated as a no-fee Request for Reconsideration of the Petition to Withdraw Holding of Abandonment under 37 CFR 1.181. This decision is made in light of the supplement to petition filed December 24, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned effective September 14, 2007 for failure to file a response to the NOTICE OF NON-COMPLIANT AMENDMENT mailed August 13, 2007. A courtesy Notice of Abandonment was mailed on March 20, 2008. By decision mailed August 18, 2008, the initial Petition to Withdraw Holding of Abandonment under 37 CFR 1.181 filed April 18, 2008 was dismissed. The petition included an assertion by the attorney of record that the Notice was not received. However, the assertion was not supported by any of the evidence required to make the showing discussed below.

Where applicant alleges non-receipt of an Office action, in the absence of demonstrated irregularities in mailing of this Notice, petitioner must submit evidence to overcome the presumption that the Office action was properly mailed to the correspondence address of record. The following showing is required:

> 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.

Considering the additional showing made on renewed petition filed September 17, 2008 and on supplement to petition filed December 24, 2008, it is concluded that in this instance

petitioner has now made an adequate showing of non-receipt of the Notice of Non-compliant Amendment mailed August 13, 2007.

In view thereof, the notice of abandonment mailed March 20, 2008 and the holding of abandonment are hereby **WITHDRAWN**.

The petition under § 1.181 is **GRANTED**.

No fee is required on petition under § 1.181.

A request to refund the partial petition fee of $200 charged to petitioner's Credit Card has been forwarded to the Office of Finance for processing.

Technology Center AU 3617 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 Notice of Non-compliant Amendment mailed August 13, 2007 and for restarting of the period for reply.

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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**SILVERBROOK RESEARCH PTY LTD.**
**393 DARLING STREET**
**BALMAIN, NSW 2041**
**AUSTRALIA**

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**OFFICE OF PETITIONS**

| | |
|---|---|
| In re Application of | : |
| Kia Silverbrook | : |
| Application No. 11/030,964 | : DECISION ON PETITION |
| Filed: January 10, 2005 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. ZE044US | : |

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 30, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 09/807,297, filed August 13, 2001 (which is the national stage entry of Application No. PCT/AU99/00894, filed October 15, 1999), as 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 benefit of 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, has been mailed under separate cover.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3218. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2853 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application.

Frances Hicks
Petitions Examiner
Office of Petitions

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400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Roycroft et al. | : | |
| Application No. 11/030986 | : | |
| Filing or 371(c) Date: 01/10/2005 | : | |
| Attorney Docket Number: P70358US0 | : | ON PETITION |

This is a decision on the correspondence filed November 27, 2007. The petition is properly treated under 37 CFR 1.181(a). 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 non-final office action, mailed May 3, 2007. 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 August 4, 2007. A Notice of Abandonment was mailed November 16, 2007.

Applicant files the present petition and asserts that a timely response to the Office action was filed, including a request for a three (3) month extension of time and fee, on November 5, 2007. Applicant avers that this assertion is supported by Office records, and files a copy of the Patent Application Information and Retrieval ("PAIR") screen showing that a reply to the Office action was filed on November 5, 2007.

A review of Office records reveals that the Office received a timely response to the Office action, including a request for a three (3) month extension of time and fee, on November 5, 2007[1].

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

[1] Accord, 37 CFR 1.6(a)(3).

The application will be referred to Technology Center Art Unit 2813 for processing of the Reply in the 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

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ONE SKYLINE PLACE
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH, VA 22041

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|---|---|---|
| In re Application of | : | |
| Ching-Chuan Wang | : | |
| Application No. 11/030,991 | : | DECISION ON PETITION |
| Filed: January 10, 2005 | : | |
| Attorney Docket No. BHT-3092-477 | : | |

This is a decision on the petition, filed April 23, 2008, under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of September 27, 2007, which set a three (3) month shortened statutory period for reply. A reply was due on or before December 27, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on February 20, 2008 of, *inter alia,* an Amendment After Final, Request for Continued Examination (RCE) and Petition For Two Month Extension. A copy of the previously submitted reply accompanies the petition.

The response acknowledged as having been received in the USPTO on February 20, 2008 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the response was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on February 20, 2008.

This application is being referred to Technology Center AU 3749 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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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**VAN PELT, YI & JAMES LLP**
**10050 N. FOOTHILL BLVD #200**
**CUPERTINO, CA 95014**

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NOV 18 2008

**OFFICE OF PETITIONS**

In re Application of
**TENE**, Gil
Application No. 11/031,015
Filed: January 7, 2005
Attorney Docket No. **AZULP015**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 9, 2008 and re-submitted June 6, 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 April 30, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed January 31, 2008. Accordingly, the date of abandonment of this application is May 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 of $720 and publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

MAY 19 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Mitsuhiro Noguchi, et al. | : | |
| Application No. 11/031,036 | : | DECISION GRANTING PETITION |
| Filed: January 10, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. 264386US2S | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 18, 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 April 28, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2894 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the amendment previously filed April 27, 2010.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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HARMAN – BRINKS HOFER CHICAGO
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 | : | |
| Jeremy Adam Geisler | : | |
| Application No. 11/031,049 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 11336-804 (P05014US) | : | 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 9, 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

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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OFFICE OF PETITIONS

| | |
|---|---|
| In re Patent No. 7,157,584 | : DECISION ON APPLICATION |
| Kuroita, et al. | : FOR PATENT TERM ADJUSTMENT |
| Issue Date: January 2, 2007 | : AND NOTICE OF INTENT |
| Application No. 11/031,057 | : TO ISSUE |
| Filed: January 7, 2005 | : CERTIFICATE OF CORRECTION |
| Attorney Docket No. 084437-0179 | : |

This is a decision on the "Petition for Reconsideration of Patent Term Adjustment", filed February 20, 2007. Patentees request that the patent term adjustment indicated on the patent be corrected from one hundred fourteen (114) days to one hundred thirty-five (135) days.

The application for patent term adjustment is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred thirty-five (135)** days.

On January 2, 2007, the above-identified application matured into U.S. Patent No. 7,157,584 B2. The instant request for reconsideration filed February 20, 2007 was timely filed within two months of the date the patent issued. See §1.705(d). The Patent issued with a Patent Term Adjustment of one hundred fourteen (114) days.

Patentees state that the patent is not subject to a terminal disclaimer.

Patentees assert that they should not have been assessed applicant delay of twenty-one (21) days for the submission of an

English language translation of a foreign priority application on October 6, 2006.

37 CFR 1.55(a)(4)(i) states:

> (i) An English language translation of a non-English language foreign application is not required except:
>
> (A) When the application is involved in an interference (see § 41.202 of this title),
>
> (B) When necessary to overcome the date of a reference relied upon by the examiner, or
>
> (C) When specifically required by the examiner.

Applicants filed a certified copy of a priority Japanese patent application on January 28, 2005. The next communication mailed by the Office was the Notice of Allowance and Notice of Allowability on July 20, 2006. The Notice of Allowability pointed out that no certified copy of the English translation had been received. Accordingly, in view of 37 CFR 1.55(a)(4)(i), and because this was the first occasion that the Examiner gave any indication that an English language translation was required, the delay of twenty-one (21) days in this instance is not warranted.

In view thereof, the correct determination of PTA at the time of issuance is one hundred thirty-five (135) days (135 days of PTO delay and 0 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 the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred thirty-five (135)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enc: draft Certificate of Correction (1 page)

UNITED STATES PATENT AND TRADEMARK OFFICE

# DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,157,584 B2

DATED : January 2, 2007

INVENTOR(S) : Kuroita, et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (114) days

Delete the phrase "by 114 days" and insert – by 135 days—

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
1500 K STREET N.W.
SUITE 700
WASHINGTON, DC 20005

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Robert Walters | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7655323 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/02/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,078 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/10/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE IAP5
FEB 10 2006
PATENT & TRADEMARK OFFICE

IFW

February 8, 2006

AU 1724
EXR: Pham, Minh-Chau
1-10-05

United States Patent and Trademark Office
Director of Patents
P.O. Box 1450
Alexandria, Va. 22313

Dear Sir:

The purpose of this letter is to request an expeditious review of my patent application number 11/031,082. The justification for this request is my age which is 73 years old. A copy of my driver's license is enclosed as proof of my age. Please let me know as soon as possible concerning the disposition of this request. Thank you in advance.

Sincerely,

Marvin S. Crow

Marvin S. Crow
5913 River Drive
Lorton, Va. 22079

Encl a/s

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
MAR 14 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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DEWITT ROSS & STEVENS, S.C.
8000 EXCELSIOR DR.
SUITE 401
MADISON, WI 53717-1914

**COPY MAILED**

AUG 0 3 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| William I. Vogt | : | |
| Application No. 11/031,089 | : | ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. 17776.010 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed on May 25, 2007, to revive the above-identified application.

The application became abandoned for failure to respond to the non-final Office action mailed on November 14, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b), in that, petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2872, for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA CA 90404

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MAR 16 2006

OFFICE OF PETITIONS

In re Application of
Steven T. Kirsch et al.
Application No. 11/031,100
Filed: January 6, 2005
Attorney Docket No. 58002-012601

DECISION ON PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed February 6, 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(s), unless previously submitted;
> **(2)** the surcharge set forth in § 1.17(t); and
> **(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference the prior filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior

application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Before the petition under 37 CFR § 1.78(a)(3) can be granted, a renewed petition and either an Application Data Sheet (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

Additionally, there is no indication that petitioner herein was ever empowered to prosecute the instant application. In fact, the oath filed January 6, 2005 has not appointed any attorneys to prosecute this application and the address of record is different from the one used on the petition. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation 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.

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
40l 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 Patricia Faison-Ball at (571) 272-3212.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

cc:
Berkeley Law and Technology Group, LLC
1700 NW 167th Place, Suite 240
Beaverton, OR 97006

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GREENBERG TRAURIG LLP
2450 COLORADO AVENUE
SUITE 400E
SANTA MONICA CA 90404

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JUL 25 2006
OFFICE OF PETITIONS

| | |
|---|---|
| In re Application of | : |
| Steven T. Kirsch et al. | : |
| Application No. 11/031,100 | : DECISION ON PETITION |
| Filed: January 6, 2005 | : UNDER 37 CFR 1.78(a)(3) |
| Attorney Docket No. 58002-012601 | : |

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed May 16, 2006, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the amendment filed with the petition.

The petition is **GRANTED**.

A petition filed February 6, 2006 was dismissed March 16, 2006 because the amendment filed with the petition improperly incorporated by reference the prior filed application. Comes now petitioner with the instant renewed petition.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

**(1)** the reference required by 35 U.S.C.120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
**(2)** the surcharge set forth in 1.17(t); and
**(3)** a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for priority under 35 U.S.C. 120 is accepted as being unintentionally delayed.

***The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.***

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2165 for appropriate action on the amendment filed February 6, 2006, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed application.

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 |
|---|---|---|---|---|---|---|---|
| 11/031,100 | 01/06/2005 | 2165 | 1360 | 58002-012601 | 3 | 14 | 3 |

**CONFIRMATION NO. 7931**
**CORRECTED FILING RECEIPT**
*OC000000019402654*
*OC000000019402654*

46560
THE WALT DISNEY COMPANY
C/O GREENBERG TRAURIG LLP
2450 COLORADO AVENUE SUITE 400E
SANTA MONICA, CA 90404

Date Mailed: 06/23/2006

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

**Applicant(s)**

Steven T. Kirsch, Los Altos, CA;
Christopher J. Lindblad, Oakland, CA;

**Power of Attorney:** None

**Domestic Priority data as claimed by applicant**

This application is a CON of 10/190,341 07/03/2002 PAT 6,859,833
which is a CON of 09/655,999 06/06/2000 PAT 6,466,966
which is a CON of 09/071,674 05/01/1998 PAT 6,189,030
which is a CIP of 08/999,727 12/23/1997 PAT 5,870,546
which is a CON of 08/604,468 02/21/1996 PAT 5,751,956

**Foreign Applications**

**If Required, Foreign Filing License Granted:** 02/25/2005

**The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/031,100**

**Projected Publication Date:** Not Applicable

**Non-Publication Request:** No

**Early Publication Request:** No

**Title**

Method and apparatus for redirection of server external hyper-link references

**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.

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).

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## LICENSE FOR FOREIGN FILING UNDER
## Title 35, United States Code, Section 184
## Title 37, Code of Federal Regulations, 5.11 & 5.15

**GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

**NOT GRANTED**

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. 030405

ROBERT E. KREBS
THELEN REID & PRIEST LLP
P.O. BOX 640640
SAN JOSE, CA 95164-0640

APR - 5 2005

| | | |
|---|---|---|
| In re Application of: | : | |
| TREY NEEMANN *et al.* | : | |
| Serial No.: 11/031,111 | : | DECISION ON REQUEST TO WITHDRAW |
| Filed: January 05, 2005 | : | FROM RECORD |
| Attorney Docket No.: **035291-014** | : | |

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed February 18, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by Robert E. Krebs, on behalf of himself and all the attorneys/agents listed in the request for withdrawal. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Leisa M, Smith, at the below address, until otherwise notified by applicant.

Inquiries related to this decision should be directed to Jose G. Dees at (571) 272-1569.

Jose G. Dees, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: LEISA M. SMITH, ESQ.
FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK, NY 10112-3800

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**Levine Bagade Han LLP**
**2483 East Bayshore Road, Suite 100**
**Palo Alto, CA 94303**

**COPY MAILED**

MAY 22 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eric Michael Stimmann | : | |
| Application No. 11/031,113 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. STIM-N-Z001.00-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 January 25, 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 David A. Levine on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Joe Smith at the address indicated below.

There is an outstanding Office action mailed October 18, 2007 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Eric Michael Stimmann**
**5654 Waltrip Lane**
**San Jose, CA 95118**

UNITED STATES PATENT AND TRADEMARK OFFICE

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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 |
|---|---|---|---|
| 11/031,113 | 01/07/2005 | Eric Michael Stimmann | STIM-N-Z001.00-US |

**CONFIRMATION NO. 3559**

**POWER OF ATTORNEY NOTICE**

40518
LEVINE BAGADE HAN LLP
2483 EAST BAYSHORE ROAD, SUITE 100
PALO ALTO, CA 94303

*OC000000030074934*

Date Mailed: 05/21/2008

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/25/2008.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tswilliams/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

Mail Date: 05/25/2010

| | | |
|---|---|---|
| **Applicant** | : Richard L. Zinser | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7639821 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/031,121 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1392** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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**WOODCOCK WASHBURN LLP (MICROSOFT CORPORATION)**
**CIRA CENTRE, 12TH FLOOR**
**2929 ARCH STREET**
**PHILADELPHIA PA 19104-2891**

**MAILED**

JUN 24 2010

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Eric Traut, et al. | : | |
| Application No. 11/031,133 | : | DECISION GRANTING PETITION |
| Filed: January 7, 2005 | : | UNDER 37 CFR 1.313(c)(2) |
| Attorney Docket No. MVIR-0087 / 308957.01 | : | |

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, June 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 7, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.***[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2455 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

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[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FULBRIGHT AND JAWORSKI LLP
555 S FLOWER STREET 41ST FLOOR
LOS ANGELES CA 90071

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JUN 05 2007

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Dennis K. Swanson | : | |
| Application No. 11/031,134 | : | ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. LA-3599-482US | | |

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, or in the alternative to revive under 37 CFR 1.137(b), filed on March 8, 2007.

The petition under 37 CFR 1.181 is **DISMISSED**.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance mailed October 2, 2006, which set a statutory period for reply of three (3) months. Applicant filed an Amendment after Allowance on October 31, 2006. However, as the issue fee was not paid on or by January 2, 2007, the application became abandoned by operation of law on January 3, 2007. The Office mailed a Supplemental Notice of Allowability in response to Applicant's Amendment after Allowance on January 16, 2007. A Notice of Abandonment was mailed on January 29, 2007.

Petition Under 37 CFR 1.181:

The Notice of Allowance and the Notice of Allowability mailed on November 1, 2002 set forth concurrent but distinct requirements with which applicants were required to comply. However, petitioner states that he did not pay the issue fee because he was under the impression that once his Amendment after Allowance

was entered, a new Notice of Allowance would be mailed. However, this is not the case. The Office made no error in mailing a Supplemental Notice of Allowability, and not a Supplemental Notice of Allowance. Accordingly, the abandonment of the application was proper. As such, the petition to withdraw the holding of abandonment under 37 CFR 1.181 must be dismissed.

Petition Under 37 CFR 1.137(b):

However, petitioner has met the requirements to revive the application under 37 CFR 1.137(b). Petitioner paid the petition fee and made the proper statement of unintentional delay.

The $1,400 issue fee and the $1,500 petition fee have both been charged to Deposit Account No. 50-0337, as authorized.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo

Cliff Congo
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 05 2009

OFFICE OF PETITIONS

**HDLS PATENT & TRADEMARK SERVICES**
**P.O. BOX 220746**
**CHANTILLY VA 20153-0746**

| | | |
|---|---|---|
| In re Application of | : | |
| Nan Chih Lu | : | |
| Application No. 11/031,141 | : | ON PETITION |
| Filed: January 10, 2005 | : | |
| Attorney Docket No. US0521 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 30, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the final rejection mailed October 2, 2006.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (3).

The required statement as in item (3) above was not provided.

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) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**P.O. BOX 220746**
**CHANTILLY VA 20153-0746**

MAILED

MAR 25 2009

OFFICE OF PETITIONS

In re Application of
Nan Chih Lu
Application No. 11/031,141
Filed: January 10, 2005
Attorney Docket No. US0521

DECISION ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed March 8, 2009, to revive the above-identified application.

The petition is **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. 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 an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final rejection mailed October 2, 2006, is accepted as having been unintentionally delayed.

Petitioner is reminded that a utility/plant application filed on or after June 8, 1995, requires no terminal disclaimer with the filing of the above petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3739 for appropriate action by the Examiner in the normal course of business.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAHIVE & COCKFIELD, LLP
28 STATE STREET
BOSTON, MA 02109

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|---|---|---|
| In re Application of | : | |
| Saul Wolfe et al | : | |
| Application No. 11/031,150 | : | DECISION GRANTING |
| Filed: January 6, 2005 | : | PETITION |
| Attorney Docket No. CHZ-002CPCN2 | : | |

This is a decision on the petition filed November 7, 2005, requesting that the above-identified application be accorded a filing date of January 6, 2005, rather than the presently accorded date of January 7, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on January 6, 2005 pursuant to 37 CFR 1.10. The Express Mail label receipt no. EV466144403US bears a handwritten "date-in" of January 6, 2005 as well as an official U.S. Postal Service/Boston, MA 02205 date stamp of January 6, 2005. The same Express Mail number appears on the originally filed application papers.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "date-in" on the Express Mail label, MPEP 513.

The petition is granted.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to **January 6, 2005.** Thereafter, the application file will be forwarded to Technology Center 1624 for examination in due course.

Telephone inquiries concerning this matter may be directed Irvin Dingle at (571) 272-3210. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Paper No. None

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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JUL 3 1 2006
OFFICE OF PETITIONS

| | |
|---|---|
| In re Application Of: | : |
| Luciano Bertoncini | : |
| Application No. 11/031,163 | : DECISION ON PETITION UNDER |
| Filed: January 7, 2005 | : 37 C.F.R. §1.47(b) |
| Attorney Docket No. BELL 3.0- | : |
| 010 | : |
| Title: FLAT PANEL DISPLAY | : |
| MOUNTING SYSTEM | : |

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed on May 2, 2006.

The above-identified application was filed on January 7, 2005, without an executed oath or declaration and identifying Luciano Bertoncini as the sole inventor. On October 28, 2005, applicant

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1 A grantable petition under 37 C.F.R. §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. §1.63.

was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

With the present petition, Petitioner has submitted a statement of facts from the President of the Assignee, a declaration which has been executed by an attorney who is not of record, the petition fee, the surcharge associated with the late submission of an oath or declaration, a four-month extension of time[2], and the last-known address of the non-signing inventor.

Petitioner has met requirements (1) - (3), (5), and (7) of 37 C.F.R. §1.47(b). The second requirement is not applicable.

Regarding the fourth requirement of Rule 47(b), the petition does not appear to establish that a complete copy of the application was sent to the non-signing inventor. It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers.

It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed[3].

Regarding the sixth requirement of Rule 47(b), no proof of irreparable damage has been submitted[4]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

For these reasons, the petition under 37 C.F.R. 1.47(b) 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

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2 the petition contains a certificate of mailing dated April 28, 2006.
3 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
4 See MPEP §409.03(g).

letter entitled "Renewed Petition Under 37 C.F.R. 1.47(b)". 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[5], hand-delivery[6], or facsimile[7].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[8]. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

**Paul Shanoski**
**Senior Attorney**
**Office of Petitions**
**United States Patent and Trademark Office**

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5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (571) 273-8300- please note this is a central facsimile number.
8 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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ALEXANDRIA, VA 22313-1450
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Paper No. None

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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CANCELLED

| | |
|---|---|
| In re Application Of: | : |
| Luciano Bertoncini | : |
| Application No. 11/031,163 | : DECISION ON RENEWED PETITION |
| Filed: January 7, 2005 | : UNDER 37 C.F.R. §1.47(b) |
| Attorney Docket No. BELL 3.0-010 | : |
| Title: FLAT PANEL DISPLAY MOUNTING SYSTEM | : |

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed on October 17, 2006.

The above-identified application was filed on January 7, 2005, without an executed oath or declaration and identifying Luciano Bertoncini as the sole inventor. On October 28, 2005, applicant

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1 A grantable petition under 37 C.F.R. §1.47(b) requires:
(1) The petition fee;
(2) a surcharge if the petition was not filed at the time of filing of the application;
(3) a statement of the last known address of each of the non-signing inventors;
(4) proof that either:
a) a copy of the application was sent or given to each of the non-signing inventors for review and proof that each of the non-signing inventors refused to sign, or;
b) proof that diligent efforts have been made to locate the non-signing inventor
(5) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(6) proof of irreparable damage, and;
(7) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. §1.63.

was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

The original petition was filed on May 2, 2006, and was dismissed via the mailing of a decision on July 31, 2006, for failure to meet requirements (4) and (6) of Rule §1.47(b).

With this renewed petition, Petitioner has submitted, *inter alia*, a statement of irreparable damage and a declaration of facts from the Petitioner. The petition was accompanied by a one-month extension of time, so as to make timely this response.

Petitioner has met requirements (1) - (3) and (5) - (7) of Rule §1.47(b).

Regarding the fourth requirement, Petitioner has set forth that she sent a complete copy of the application to the last known e-mail address of the non-signing inventor.

The transmission of documents via e-mail, while a common practice, can be problematic. Transmission and receipt of documents - whether in image, word-processing, spreadsheet or other form - can be affected by differences in software generation between the sender and recipient(s), and other interferences include, but are not limited to, sender's and recipient's Internet service provider's (ISP) and/or office/personal security firewall systems.

Thus, in the absence of an express statement from a non-signing inventor(s) that he/she/they have received, opened and read a document, unlike a printed page in the language of the recipient there is as of this writing no basis <u>to presume</u> that an e-mailed document was in a form that can be read <u>and</u> comprehended.

Since the fourth requirement of Rule §1.47(b) has not been met, the showing presented in this renewed petition is incomplete. Consequently, this renewed petition under 37 C.F.R. 1.47(b) must be **DISMISSED**.

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. 1.47(b)". This is not a final agency action within the meaning of 5 U.S.C 704.

Prior to the submission of a second renewed petition, Petitioner may wish to mail a complete copy of the application to the last-known address of the non-signing inventor, via postal mail, and provide the inventor with a reasonable period of time to both review the materials and respond.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[2], hand-delivery[3], or facsimile[4].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[5]. 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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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 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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Paper No. None

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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AUG 20 2007

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|---|---|---|
| In re Application of | : | |
| Luciano Bertoncini | : | DECISION NOTING JOINDER AND |
| Application No. 11/031,163 | : | DISMISSING SECOND RENEWED |
| Filed: January 7, 2005 | : | PETITION UNDER 37 C.F.R. § |
| Attorney Docket No. BELL 3.0-010 | : | 1.47(A) AS MOOT |
| Title: FLAT PANEL DISPLAY MOUNTING SYSTEM | : | |

This is in response to the second renewed petition under 37 C.F.R. § 1.47(a)[1], filed July 30, 2007. A supplement to this petition was submitted on August 10, 2007.

The above-identified application was filed on January 7, 2005, without an executed oath or declaration and identifying Luciano Bertoncini as the sole inventor. On October 28, 2005, applicant

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $200;
(2) a surcharge of either $65 or $130, if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(f);
(3) a statement of the last known address of the non-signing inventors;
(4) proof that either:
a) 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) the non-signing inventor cannot be found or reached after diligent effort, and a statement that these efforts were not successful;
(5) a declaration which complies with 37 CFR §1.63.

was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 C.F.R. § 1.63 and the surcharge associated with the late filing of an oath or declaration. The notice set a two-month period for reply.

An original petition was filed on May 2, 2006, and was dismissed via the mailing of a decision on July 31, 2006, for failure to meet requirements (4) and (6) of Rule § 1.47(b). A renewed petition was filed on October 17, 2006, and was dismissed via the mailing of a decision on March 30, 2007, for failure to meet the fourth requirement Rule § 1.47(b).

With the supplement to this second renewed petition, Petitioner has included a declaration that has been executed by the previously non-signing inventor.

Petitioner has further submitted a two-month extension of time to make timely this response.

As such, this second renewed petition is **DISMISSED AS MOOT**.

In view of the joinder of the joint inventor, further consideration under 37 C.F.R. § 1.47(b) is not necessary and the petition is considered moot. This application does not have any Rule § 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 C.F.R. § 1.47(b).

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 present application can receive further processing in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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United States Patent and Trademark Office
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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

KAPLAN GILMAN GIBSON & DERNIER L.L.P.
900 ROUTE 9 NORTH
WOODBRIDGE NJ 07095

In re Application of
Edward Jordan
Application No. 11/031,164
Filed: January 7, 2005
For: **METHOD AND SYSTEM FOR MEDIA AND SIMILAR DOWNLOADING**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition filed October 31, 2005, under Manual of Patent Examination Procedure §708.02, VIII requesting accelerated examination.

The petition under Manual of Patent Examination Procedure §708.02, VIII, must:
(1) be filed prior to receiving any examination by the examiner,
(2) be accompanied by the required fee- $130,
(3) the claims should be directed to a single invention (if it is determined that the claims pertain to more than one invention, then applicant will have to make an election without traverse or forfeit accelerated examination status),
(4) state that a pre-examination search was made, and fully discuss the search method employed, such as classes and subclasses searched, publications, Chemical abstracts, patents, etc. A search made by a foreign patent office satisfies this requirement,
(5) be accompanied by a copy of each of the references most closely related to the subject matter encompassed by the claims if said references are not already of record,
(6) fully discuss the references, pointing out with the particularity required by 37 C.F.R. §1.111 (b) and (c), how the claimed subject matter is patentable over the references.

The petitioner meets all the above-listed requirements. Accordingly, the petition is **GRANTED**.

The application will retain its special status throughout its entire prosecution, including any appeal to the Board of Patent Appeals and Interferences, subject only to diligent prosecution by the applicant. The application file is being forwarded to the examiner for appropriate action in due course.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO IL 60610

In re Patent No. 7,593,877
Issued: September 22, 2009
Application No. 11/031,182
Filed: January 7, 2005
Attorney Docket No. 4672/420

: DECISION ON REQUEST
: FOR RECONSIDERATION OF
: PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed September 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from 655 days to 893 days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 22, 2009, the above-identified application matured into US Patent No. 7,593,877 with a patent term adjustment of 655 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 893 days, which includes 284 days due to exceeding three year pendency.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay and the period of Examination Delay to the extent that these periods of delay are not overlapping. However, in effect, patentees contend that 46 days of the Three Year Delay period overlaps with the examination delay. Accordingly, patentees submit that the total period of adjustment for Office delay is 893 days, which includes the period of Three Year Delay (284 days) and the period of Examination Delay (738

days), reduced by the period of overlap (46 days). As such, patentees assert entitlement to a patent term adjustment of 893 days (284 + 738 reduced by 46 overlap – 83 (applicant delay)).

The Office contends that all 284[1] days for over three year pendency overlap with the 738 days accorded for Office delay during the pendency of the application, and thus, no additional days were entered for 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

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[1]Three year pendency backs out all of the RCE time so three year provision would stop on October 16, 2008, the day before the filing of the RCE.

> patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

As 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.

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 7, 2005, to the filing of the first Request for Continued Examination (RCE) on October 17, 2008. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 738 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 284 days for Office delay in issuing the patent overlap with the 738 days of Office delay. During that time, the issuance of the patent was delayed by 738 days, not 738 + 284 days. The Office experienced 738 days of examination delay. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 284 days of Office delay and the time allowed within the time

frames for processing and examination and the 83 days of applicant delay, as of the date the patent issued, the application was pending three years and 284 days. The Office did not delay 738 days and then an additional 284 days. Accordingly, 738 days of patent term adjustment (not 738 and 284 days) was properly entered. The period of delay of 284 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 738 days attributable to grounds specified in § 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 738 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 284 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 0 additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BRINKS HOFER GILSON & LIONE / CME
P.O. BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Dmitriy Glinberg | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593877 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,182 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

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 PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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| | | |
|---|---|---|
| In re Application of | : | |
| Richard Nuccitelli, et. al. | : | |
| Application No. 11/031,188 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. 026955-000110US | : | |

This is a decision on the petitions under the unintentional provisions of 37 CFR 1.137(b), filed June 13, 2008 and November 20, 2008, 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 November 30, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is May 31, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Denise Williams at (571) 272-8930.

This application is being referred to Technology Center AU 3736 for appropriate action by the Examiner in the normal course of business on the reply received.

Brian W. Brown
Petitions Examiner
Office of Petitions

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**TWO EMBARCADERO CENTER, EIGHTH FLOOR**
**SAN FRANCISCO, CA 94111-3834**

**MAILED**

JUN 15 2009

**OFFICE OF PETITIONS**

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|---|---|---|
| In re Application of | : | |
| Richard NUCCITELLI, et al | : | |
| Application No. 11/031,188 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 026955-000110US | : | 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 5, 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 above at items 1, 2 and 3 have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT W. J. USER
PATENT AGENT
1133 BROADWAY, #1515
NEW YORK, NY 10010

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HEXCEL CORPORATION
11711 DUBLIN BOULEVARD
DUBLIN, CA 94568

| | | |
|---|---|---|
| In re application 7,223,466 O'Byrne | : | |
| Issue Date: May 29, 2007 | : | DECISION ON |
| Appl No.: 11/031,190 | : | PETITION |
| Filed: January 7, 2005 | : | *37 CFR 1.324* |
| For: Correction of Inventorship | : | |

This is decision on the petition filed April 20, 2010, to correct inventorship under 37 C.F.R. 1.324.

The Petition is **GRANTED**.

Rena L. Dye
Supervisory Patent Examiner
Technology Center 1700

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,223,466
Patented: May 29, 2007

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:

Kilian O'Byrne; Philip C. Hadley; Chris Harrington, all of the United Kingdom.

Rena L. Dye
Supervisory Patent Examiner
Art Unit 1782

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**KRUMHOLZ & MENTLIK**
**600 SOUTH AVENUE WEST**
**WESTFIELD NJ 07090**

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JAN 29 2009

OFFICE OF PETITIONS

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|---|---|---|
| In re Application of | : | |
| Walkenhorst et al. | : | DECISION REFUSING STATUS |
| Application No. 11/031,191 | : | UNDER 37 CFR 1.47(a) |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. SPINE 3.0-2673 CONT | : | |

This is in response to the petition under 37 CFR 1.47(a), filed November 28, 2008.

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 or legal representative. **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), (2) and (4) set forth above.

As to item (1), since inventor Herb Cohen is deceased, the oath or declaration under 37 CFR 1.63 must be made in his name by a legal representative. Applicants have failed to establish either that the legal representative of the deceased inventor has refused to join in the filing of the above-identified application or that (s)he cannot be reached. As an initial matter, the statute, 35 U.S.C. § 117, provides that the legal representative of a deceased inventor may make an application for patent. If the legal representative cannot be reached or refused to join in the filing of the application, 35 U.S.C. §§ 116 (where there is a joint inventors) and 118 (where the deceased inventor was the sole inventor) apply. *See* Manual of Patent Examining Procedure, Section 409.01(a). Also, there is no provision for a legal representative that cannot be identified. Normally, a widow or widower of a deceased inventor is the legal representative of the deceased

inventor. Applicants should check with an attorney knowledgeable in estate laws in the relevant jurisdiction.

As stated in Manual of Patent Examining Procedure, Section 409.03(c):

> 37 CFR 1.47 should not be considered an alternative to 37 CFR 1.42 or 35 U.S.C. 117 since the language "cannot be found or reached after diligent effort" has no reasonable application to a deceased inventor. In re Application Papers Filed September 10, 1954, 108 USPQ 340 (Comm'r Pat. 1955).

As to item (2), the declaration, filed with the petition on November 28, 2008, does not comply with 37 CFR 1.63 and 1.64 since inventor Herb Cohen is not indicated as deceased and the name of the legal representative is not set forth on the declaration. 35 U.S.C. § 117 provides that a legal representative may file a patent application on behalf of a deceased inventor and since the legal representative has refused to join in the application, 35 U.S.C. § 116 and 37 CFR 1.47(a) permit filing of the application on behalf of the legal representative. Accordingly, a new declaration, which is signed by the remaining inventors and sets forth the name of the deceased inventor, as well as the name, residence and citizenship of the legal representative of the deceased inventor, is **REQUIRED**. *See* MPEP § 409.03(a).

As to item (4), a statement of the last known address of inventor Cohen's legal representative is missing and is required.

Further correspondence with respect to this matter should be addressed as follows:

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Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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**WESTFIELD NJ 07090**

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MAY 28 2009

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| In re Application of | : | |
| Walkenhorst et al. | : | DECISION REFUSING STATUS |
| Application No. 11/031,191 | : | UNDER 37 CFR 1.47(a) |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. SPINE 3.0-2673 CONT | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed March 30, 2009 and resubmitted April 20, 2009.

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 or legal representative. **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, or legal representative, 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 or legal representative. Applicant lacks items (1) and (2) set forth above.

As to item (1), petitioner indicates that the legal representative of inventor Herb Cohen is Tomeko Cohen and that she is available but allegedly refuses to join in the application. However, petitioner has failed to establish that the legal representative of the deceased inventor, Tomeko Cohen, has refused to join in the filing of the above-identified application.

The statements by the unidentified neighbor do not establish refusal. The neighbor only said that Mrs. Cohen would have to "think about" whether or not she was going to sign the documents and that it was "likely" she would not sign the declaration. Mrs. Cohen never actually refused directly or via this third party.

The declaration by Brian R. Tomkins on March 25, 2009 indicates that Mrs. Cohen saw the declaration but does not clearly indicate that she was presented with a complete copy of the application papers, including the specification, claims, and drawings, which she must review before signing the declaration. The Tomkins declaration does indicate that Mrs. Cohen had questions regarding the signing of the declaration but does not indicate that those questions were addressed such that she understood her rights related to the application. Also, the record does not clearly establish that she saw any of the documents mailed to her such that Mr. Tomkins would have first hand knowledge of the presentment. Mr. Tomkins spoke to a third party, the unidentified neighbor, regarding this presentment. Moreover, in his declaration of November 25, 2008, Mr. Tompkins also stated that he had "first hand knowledge" regarding the similar presentment of the application papers to inventor Herb Cohen on August 19, 2008, notwithstanding the fact that Mr. Cohen had been dead since December 25, 2007. Therefore, the "first hand knowledge" asserted by Mr. Tomkins regarding the presentment to Mrs. Cohen is in doubt.

Furthermore, none of the letters to Mrs. Cohen give a deadline by which she must reply or state that her failure to reply will constitute a refusal. The actions or inaction of Mrs. Cohen identified in the evidence of record are consistent with a person who is either unaware of her rights related to this application or still considering her options, and do not suggest that she refuses to join in the application.

If Mrs. Cohen refuses to sign a complete declaration, an express or oral refusal, along with the time and place of the refusal by Mrs. Cohen, must be stated in an affidavit or declaration <u>by the party to whom the refusal by Mrs. Cohen was made</u>. Where there is a written refusal, a copy of the document(s) evidencing that refusal must be made part of the affidavit or declaration. 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.

As to item (2), the relationship of Mrs. Cohen to the deceased inventor is not stated in the declaration filed with the petition on April 30, 2009, as required by 37 CFR 1.64(b). In particular, the declaration must state that Mrs. Cohen is the legal representative of Mr. Cohen, if she is actually the legal representative. Petitioner should note MPEP 409.01(a) and (b) in this regard.

Further correspondence with respect to this matter should be addressed as follows:

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401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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|---|---|---|
| In re Application of | : | |
| Walkenhorst et al. | : | DECISION GRANTING STATUS |
| Application No. 11/031,191 | : | UNDER 37 CFR 1.47(a) |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. SPINE 3.0-2673 CONT | : | |

This is in response to the renewed petition under 37 CFR 1.47(a), filed July 31, 2009.

The petition is **GRANTED**.

Based on the declaration by Brian R. Tomkins, Reg. No. 58,550, petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application. Also, although the declaration listing the inventors does not state the relationship of Tomeko Cohen to Herb Cohen as required by 37 CFR 1.64(b), the declaration by Brian R. Tomkins states that Tomeko Cohen is the widow and Legal Representative of Herb Cohen. Accordingly, Tomeko Cohen is understood to be listed on the declaration as the Legal Representative of Herb Cohen. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the declaration (PTO/SB/01).

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(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 referred to Technology Center Art Unit 3738 for processing.

Telephone inquiries should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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OCT 13 2009

OFFICE OF PETITIONS

Tomeko Cohen
9436 Lago Drive
Boynton Beach, FL 33437-2752

In re Application of
Walkenhorst et al.
Application No. 11/031,191
Filed: January 7, 2005
For: BARREL-SHAPED APPARATUS FOR FUSING ADJACENT BONE STRUCTURE

Dear Mrs. Cohen:

You are named as the Legal Representative of joint inventor Herb Cohen 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 Mr. Cohen will be designated therein as a joint inventor.

As the Legal Representative of a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR §§ 1.63 and 1.64.

Telephone inquiries regarding this communication should be directed to Christopher Bottorff at (571) 272-6692. Requests for information regarding the application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

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**(SEATTLE OFFICE)**
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**SUITE 4900**
**CHICAGO, IL 60601-6731**

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| In re Application of | : | |
| John SELBY | : | |
| Application No. 11/031,205 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 306629 | | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 14, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because the customer number on the request to withdraw is not of record. The Declaration and Power of Attorney filed on March 9, 2005 does not appoint customer number 33042 as attorneys of record only for a correspondence address.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no outstanding Office actions 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

cc: JOHN SELBY
80676 AVENIDA SANTA MARTA
INDIO, CA 92203

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| In re Application of | : | |
| John SELBY | : | |
| Application No. 11/031,205 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 303329 | : | 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 3, 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 B. Cronklin on behalf of all attorneys/agents of record associated with Customer No. 23460.

All attorneys/agents of record associated with Customer No. 23460 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

All future communications from the Office will be directed to the inventor at the address copied 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 the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JOHN SELBY
40330 CALLE CANCUN
INDIO, CA 92203-7418

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United States Patent and Trademark Office
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Paper No.

CHRISTOPHER P MAIORANA, PC
LSI Corporation
24840 HARPER
SUITE 100
ST CLAIR SHORES MI 48080

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|---|---|---|
| In re Application of | : | |
| MACDONALD et al. | : | DECISION ON |
| Application No. 11/031,208 | : | PETITION |
| Filed: January 6, 2005 | : | |
| Atty Docket No. 04-1589/ | : | |
| 1496.00615 | : | |

This is a decision on the PETITION UNDER 37 C.F.R. § 1.137(b) TO REVIVE AN UNINTENTIONALLY ABANDONED APPLICATION filed May 19, 2008.

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, January 9, 2008, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply filed, the above-identified application became abandoned. A courtesy Notice of Abandonment was mailed on May 5, 2008.

In response, the instant petition was promptly filed. The petition included the required reply[1] in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

Receipt of replacement drawings filed February 29, 2008 is acknowledged.

[1] There was no distinct but concurrent requirement for corrected drawings.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

The Office of Data Management (formerly known as the Office of Patent Publication) has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|---|---|---|---|
| 11/031,227 | 01/06/2005 | Edward J. Sharpe | 200400108-1 | 2453 |

7590 04/15/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

| EXAMINER |
|---|
| ZHEN, LI B |

| ART UNIT | PAPER NUMBER |
|---|---|
| 2194 | |

| NOTIFICATION DATE | DELIVERY MODE |
|---|---|
| 04/15/2008 | ELECTRONIC |

## DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

*The declaration of express abandonment is recognized*

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Nioni Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/14/2008 DTERRY
01/12/2005 EHAILE1 00000003 082025 11031227
02 FC:1111 500.00 CR



FORM PET651G (Rev. 08/07)

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Patent Capital Group - Cisco
6119 McCommas
Dallas, TX 75214

Mail Date: 05/12/2010

| | | |
|---|---|---|
| **Applicant** | : Aravind Sitaraman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7616640 | : RECALCULATION of PATENT |
| **Issue Date** | : 11/10/2009 | : TERM ADJUSTMENT IN VIEW |
| **Application No** | : 11/031,229 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. BOX 10500
MCLEAN VA 22102

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Reddy | : | |
| Application No. 11/031,247 | : | DECISION ON PETITION |
| Filed: January 6, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 067189-0313824 | : | 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, 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 David A. Jakopin on behalf of all attorneys of record who are associated with customer No. 27498.

All attorneys/agents associated with the Customer Number 27498 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: Chittaranjan V. Reddy
3310 Chartwell Road
Peoria, IL 61614

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Paper No. 070105

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

NOV 0 8 2005

| | | |
|---|---|---|
| In re Application of: | : | |
| Steven Meeks | : | |
| Serial No.: 11/031,248 | : | DECISION ON REQUEST TO WITHDRAW |
| Filed: January 6, 2005 | : | FROM RECORD |
| Attorney Docket No.: **20830-09440** | : | |

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed June 17, 2005.

A grantable request to withdraw as attorney of record must be signed by every attorney seeking to withdraw or contain a clear indication that one attorney is signing on behalf of others. A request to withdraw will not be approved unless at least thirty (30) 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 meets all the above stated requirements. The request was signed by John T. McNelis, on behalf of herself and all the attorneys/agents of record. There is no outstanding Office action at this time.

The request is **APPROVED**.

There are no attorneys/agents of record at this time.

All future communications from the Office will be directed to Jed Caven and Ramin Aghevli, at the below 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

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Jed Caven and Ramin Aghevli
Caven & Aghevli LLC
9249 S. Broadway Blvd., Unit 200-201
Highlands Ranch, CO 80129

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LNG/KLA 2 Joint Customer Number
C/O Luedeka, Neely & Graham, P.C.
P.O. Box 1871
Knoxville TN 37901

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AUG 25 2009

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| | | |
|---|---|---|
| In re Application of | : | |
| Steven W. Meeks | : | |
| Application No.: 11/031248 | : | ON PETITION |
| Filing or 371(c) Date: 01/06/2005 | : | |
| Attorney Docket Number: | : | |
| 64889.US | : | |

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 July 4, 2009.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely reply to the non-final Office action, mailed November 13, 2008. The Office action set a three (3) period for reply. Extensions of time under 37 CFR 1.136(a) were available. No reply having been received, the application became abandoned on February 14, 2009. A Notice of Abandonment was mailed June 17, 2009.

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 2877 for processing of the Amendment filed with the petition in the normal course of business.

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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**FITZPATRICK CELLA HARPER & SCINTO**
**30 ROCKEFELLER PLAZA**
**NEW YORK, NY 10112**

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APR 15 2009

**OFFICE OF PETITIONS**

In re Application of :
**Shunji FUJITA** :
Application No. 11/031,260 : DECISION ON PETITION
Filed: January 7, 2005 : UNDER 37 CFR 1.10 (c)
Attorney Docket No. **00862.103153.** :

This is a decision on the petition filed February 4, 2009, requesting that the above-identified application be accorded a filing date of January 7, 2005, rather than the presently accorded date of January 8, 2005. The petition is properly treated as a petition under 37 CFR 1.10(c).

Petitioner requests the earlier filing date on the basis that the application was purportedly deposited with Express Mail Service on January 7, 2005 pursuant to 37 CFR 1.10. While the copy of the Express Mail label receipt No. EV304109474US bears a handwritten "date-in" of January 8, 2005, it also includes a USPS receipt date stamp of January 7, 2005. Petitioner is alleging that the date of mailing shown in the "date-in" is a U. S. Postal Service (USPS) error and the correct date of mailing pursuant to 37 CFR 1.10 is January 7, 2005. The same Express Mail label number also appears on the original application transmittal letter of record in the file.

The evidence presented is convincing that the Express Mail package was entrusted to the USPS on January 7, 2005, as shown by the USPS stamped receipt date. Accordingly, this application is entitled to a filing date of January 7, 2005, and has been so accorded.

In view of the above, the petition is **GRANTED**.

This application file is being referred to the Office of Patent Application Processing (OPAP) for **correction of the filing date to January 7, 2005 and for issuance of a corrected filing receipt**.

Telephone inquiries relating to this decision should be directed to Monica A. Graves at (571) 272-7253. Telephone inquiries related to OPAP processing should be directed to their hotline at (571) 272-4100.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Patent Services
101 Columbia Road
P.O.Box 2245
Morristown NJ 07962-2245

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| | | |
|---|---|---|
| In re Application of | : | |
| Horning | : | |
| Application No. 11/031,276 | : | ON APPLICATION FOR |
| Filed: January 7, 2005 | : | PATENT TERM ADJUSTMENT |
| Atty Docket No. H0008038-5863 | : | |
| Title: BONDING SYSTEM HAVING | : | |
| STRESS CONTROL | : | |

This is in response to the "REQUEST FOR RECONSIDERTAION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed November 20, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is six hundred and fifty-six (656) days, not five hundred and thirty-seven (537) 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

---

[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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David John Tupman | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581119 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,288 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **674** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARIO RABINOWITZ
715 LAKEMEAD WAY
REDWOOD CITY CA 94062

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| | | |
|---|---|---|
| In re Application of | : | |
| Mario Rabinowitz | : | |
| Application No. 11/031,304 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO MAKE SPECIAL |
| Attorney Docket No. | : | 37 CFR 1.102(c)(2) |
| | : | |

This is a decision on the petition under 37 CFR 1.102(c)(2)(ii), filed February 3, 2005, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (b) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes to category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to meet the materiality standard of 37 CFR 102(c)(2)(ii). The instant invention pertains to a solar concentrator that is generally known in the prior art. That the invention may be directed to a solar energy application, does not in itself satisfy the materiality standard of the rule, i.e., petitioner has failed to explain how the claimed invention contributes in a significant, substantial, or noticeable manner to the developments in solar energy technologies. Accordingly, it is unclear as to how the claimed invention would contribute in a significant manner to category (A) or (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 FAX: (571) 273-8300

Telephone inquires concerning this decision should be directed to Ramesh Krishnamurthy at 571-272-4914, or to the undersigned at 571-272-7099.

All other inquires 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 2873 for action in its regular turn.

David Bucci
Petitions Examiner
Office of Petitions

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**Townsend and Townsend**
**Two Embarcadero Center**
**Eighth Floor**
**San Francisco, CA 94111-3834**

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| In re Application of | : | |
| Robert G. Whirley et al. | : | |
| Application No. 11/031,311 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 021308-000280US | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 1, 2005.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to Nicholas V. Sherbina and all attorneys/agents of record has been revoked by the assignee of the patent application on February 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Hoffmann & Baron, LLP
6900 Jericho Turnpike
Syosset, NY 11791

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Date : May 30, 2007

Patent No. : 7148209 B2
Application No: 11/031325
Inventor(s) : Hoemann, et al.
Issued : Dec. 12, 2006
Title : **COMPOSITION AND METHOD FOR THE REPAIR AND REGENERATION OF CARTILAGE AND OTHER TISSUES**
Docket No. : 701826-051711-C

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

**Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is denied.**

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

| | |
|---|---|
| By mail: | Mail Stop PETITIONS<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>ATTN: Office of Petitions |

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 ext. 110

David S. Resnick
NIXON PEABODY LLP
100 Summer Street
Boston MA 02110-2131

CBN/eme

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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DAVID S. RESNICK
NIXON PEABODY LLP
100 SUMMER STREET
BOSTON, MA 02110-2131

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JAN 16 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Patent No. 7,148,209 | : | |
| Issue Date: December 12, 2006 | : | |
| Application No. 11/031,325 | : | ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. 701826-051711-C | : | |

This is a decision on the petition filed July 26, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. 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.

## SPE RESPONSE FOR CERTIFICATE OF CORRECTION

**Paper No.**:20061010

**DATE** : October 10, 2006

**TO SPE OF** : ART UNIT 1661

**SUBJECT** : Request for Certificate of Correction on Patent No.: PP16939

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:** Anne Marie Grunberg **Art Unit** 1661

Best Available Copy

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MAY 0 2 2005
PATENT & TRADEMARK OFFICE

Paper No. 9

J. Andrew McKinney, Jr.
2 Hopkins Plaza
600 Mercantile Bank & Trust Bldg.
Baltimore, MD 21201

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JUL 1 8 2003

OFFICE OF PETITIONS

In re Application of
Richard Roarke and Daniel Roemer
Application No.10/272,022
Filed: October 16, 2002
Attorney Docket Number: 4263.003
Title of Invention: FIELD REBUILDABLE LOW FREQUENCY LOUDSPEAKER DRIVER HAVING A REMOVABLE DIAPHRAGM ASSEMBLY, PARTS KIT AND METHOD FOR REBUILDING A LOUDSPEAKER DRIVER IN THE FIELD

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This is in response to the renewed petition under 37 CFR 1.47(a), filed June 26, 2003.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor has refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition attest a copy of the application was sent to non-signing inventor's last known address. Non-signing inventor indicated in a letter ,which has been provided, he refused to execute the application documents. Accordingly, the non-signing inventor's failure to respond to the application sufficiently establishes that he refuses to execute the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (703) 306-0251.

Charlema R. Grant
Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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MAR 24 2008

JACOBSON HOLMAN PLLC
400 SEVENTH STREET N.W.
SUITE 600
WASHINGTON DC 20004

| | | |
|---|---|---|
| In re Application of | : | |
| Guldfeldt, et al. | : | |
| Application No. 11/031,344 | : | DECISION |
| Filed: 10 January, 2005 | : | |
| Attorney Docket No. P70335US0 | : | |

This is a decision on the petition filed on 5 November, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

## BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed 25 April, 2007, with reply due absent extension of time on or before 25 July, 2007;
- the application went abandoned after midnight 25 July, 2007;
- the Office mailed the Notice of Abandonment on 31 October, 2007;
- on 5 November, 2007, Petitioner filed the instant petition with, *inter alia*, averment of timely filing, which Petitioner supported with, *inter alia*, a date-stamped (("OCT 25 2007") receipt card and copies of a reply in the form of an amendment and request for extension of time and fee, a showing consistent with the instructions of the guidance in the Commentary MPEP §711.03 (c ).

And Office records now reflect the foregoing.

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 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.[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.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

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[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] 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).

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).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[7] (See the commentary at MPEP §711.03(c)(A) and (B).

And the regulation requires that relief be sought within two (2) months of the act complained of.

Petitioner appears to have satisfied the burdens herein.

## CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**; the 31 October, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU 3761 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—and it is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected.

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[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[6] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

[7] See: Delgar v. Schulyer, 172 USPQ 513 (D.D.C. 1971).

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[8]) 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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[8] 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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WALKER & JOCKE, L.P.A.
231 SOUTH BROADWAY STREET
MEDINA, OH 44256

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David T. Frederick | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7596427 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,351 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **588** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEGAL STAFF
MAIL CODE 482-C23-B21
P O BOX 300
DETROIT, MI 48265-3000

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Edward D. Tate JR. | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7640148 | : RECALCULATION of PATENT |
| **Issue Date** | : 12/29/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,363 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **511** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.**:20071128

**DATE** : November 28, 2007

**TO SPE OF** : ART UNIT 2851

**SUBJECT** : Request for Certificate of Correction on Patent No.: 7193683

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:**

Diane Lee

**SPE:** Diane Lee **Art Unit** 2851

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DETROIT, MI 48265-3000

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AUG 1 8 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Ed E. Han, et al. | : | |
| Application No. 11/031,397 | : | DECISION ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. GP-304438-PTT-CD | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 19, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. 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.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 18, 2007, which set a shortened statutory period for reply of three (3) months.

No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 19, 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. The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 3663 for appropriate action by the Examiner in the normal course of business on the reply received February 19, 2008.

April M. Wise
Petitions Examiner
Office of Petitions

cc: RYAN W. MASSEY
HARNESS, DICKEY & PIERCE, PLC
PO BOX 828
BLOOMFIELD HILLS, MI 48303

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Leslie Mark Ernest | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7668741 | : RECALCULATION of PATENT |
| **Issue Date** | : 02/23/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,403 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1071** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 05/17/2010

**Applicant** : Leslie Mark Ernest
**Patent Number** : 7668741
**Issue Date** : 02/23/2010
**Application No**: 11/031,403
**Filed** : 01/06/2005

: 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 **1170** 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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**BRYAN CAVE LLP**
**1290 AVENUE OF THE AMERICAS**
**NEW YORK, NY 10104**

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DEC 0 9 2009

**OFFICE OF PETITIONS**

In re Application of
**Steven P. ENGEBRETSON**
Application No. 11/031,438
Filed: January 6, 2005
Attorney Docket No. **5199-114CIP**

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 17, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment and information disclosure statement, (2) the petition fee of $810; 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 petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of

Ms. Eileen M. Ebel 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 in whose behalf she acts.

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 1614 for appropriate action by the Examiner in the normal course of business on the reply received October 13, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SEP 18 2005

FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

| | | |
|---|---|---|
| In re application of<br>Thomas H. Holtgrefe SR.<br>Application No. 11/031,442<br>Filed: January 7, 2005<br>For: MOLE TRAP | :<br>:<br>:<br>: | **DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)** |

This is a decision on the petition submitted on April 8, 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 statement signed by Thomas H. Holtgrefe, Sr. indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

**SUMMARY**: Petition to Make Special **GRANTED**.

Randolph A. Reese
Special Programs Examiner
Technology Center 3600
(571) 272-6619

RAR/dcg: 10/13/05

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CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

**COPY MAILED**

JUN 19 2009

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of: | : | |
| Love et al. | : | LETTER REGARDING |
| Application No. 11/031469 | : | PATENT TERM ADJUSTMENT |
| Filing or 371(c) Date: 01/06/2005 | : | |
| Atty Docket No. | : | |
| 026514-000300US | : | |

This letter is in response to the "GOOD FAITH LETTER IN RESPONSE TO PATENT TERM ADJUSTMENT ERROR," filed May 21, 2009. Pursuant to applicant's duty of good faith and candor to the Office, applicant discloses that the initial determination of patent term adjustment of 326 days may extend the term of this patent by too many days.

The request for review of the determination of patent term adjustment (PTA) 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 **231 days**. A copy of the updated PAIR screen, showing the correct determination, is enclosed.

On May 7, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above identified application. The Notice stated that the patent term adjustment (PTA) to date is 326 days.

The Office initially determined a patent term adjustment of 326 days based on an adjustment for PTO delay of 479 days pursuant

to 37 C.F.R. § 1.702(a)(1), reduced by 153 days of applicant delay pursuant to 37 C.F.R. 1.704. Applicant does not dispute the 153 days of Applicant delay.

37 C.F.R. 1.704(c) states:

> (7) Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed;

Applicant filed a non-compliant Amendment in response to a Restriction Requirement on July 16, 2007. This Office mailed a Notice of Non-Compliant Amendment on October 10, 2007. In response to the Notice of Non-Compliant Amendment, Applicant filed a supplemental response on October 19, 2007. Applicant should have been assessed an additional delay of 95 days pursuant to 37 C.F.R. § 1.704(c)(7)[1] for filing of the compliant Amendment on October 19, 2007, after filing the non-complaint amendment on July 16, 2007.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **231 days** ((479 days of PTO delay, reduced by 248 (95 + 7 + 146)) days of applicant delay, subject to any terminal disclaimer.

As this letter was submitted as an advisement to the Office of an error in applicant's favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The file is being forwarded to the Office of Data Management for processing into 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

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[1] Applicant incorrectly calculates the adjustment under 37 CFR 1.704(b).

the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Enclosure: Updated PAIR Screen

Day : Thursday
Date: 6/18/2009

PALM INTRANET

Time: 21:00:28

| PTA Calculations for Application: 11/031469 | | | |
|---|---|---|---|
| Application Filing Date: | 01/06/2005 | PTO Delay (PTO): | 479 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 153 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 231 |
| PTO Delay Adjustment: | -95 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 63 | 06/18/2009 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 95 | |
| 51 | 05/07/2009 | MAIL NOTICE OF ALLOWANCE | | | |
| 50 | 05/07/2009 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 49 | 05/07/2009 | ISSUE REVISION COMPLETED | | | |
| 48 | 05/07/2009 | DOCUMENT VERIFICATION | | | |
| 47 | 05/07/2009 | NOTICE OF ALLOWABILITY | | | |
| 46 | 03/05/2009 | DATE FORWARDED TO EXAMINER | | | |
| 45 | 02/19/2009 | RESPONSE AFTER NON-FINAL ACTION | | 146 | 41 |
| 44 | 02/19/2009 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 43 | 12/23/2008 | MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT | | | |
| 42 | 10/09/2008 | DATE FORWARDED TO EXAMINER | | | |
| 41.1 | 09/26/2008 | INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION | | | |
| 41 | 09/26/2008 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 40 | 06/27/2008 | MAIL NON-FINAL REJECTION | | | |
| 39 | 06/19/2008 | EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413) | | | |
| 38 | 06/23/2008 | NON-FINAL REJECTION | | | |
| 31 | 04/13/2008 | DATE FORWARDED TO EXAMINER | | | |
| 30 | 03/18/2008 | RESPONSE AFTER NON-FINAL ACTION | | 7 | 27 |
| 29 | 03/18/2008 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 28 | 12/12/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 27 | 12/11/2007 | MAIL NON-FINAL REJECTION | | | |
| 26 | 12/08/2007 | NON-FINAL REJECTION | | | |

| | | | | | |
|---|---|---|---|---|---|
| 25 | 10/24/2007 | DATE FORWARDED TO EXAMINER | | | |
| 24 | 10/19/2007 | RESPONSE AFTER NON-FINAL ACTION | | | |
| 23 | 10/10/2007 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 22 | 10/01/2007 | MISCELLANEOUS ACTION WITH SSP | | | |
| 21 | 07/19/2007 | DATE FORWARDED TO EXAMINER | | | |
| 20 | 07/16/2007 | RESPONSE TO ELECTION / RESTRICTION FILED | | | |
| 19 | 06/28/2007 | MAIL RESTRICTION REQUIREMENT | 479 | | -1 |
| 18 | 06/25/2007 | REQUIREMENT FOR RESTRICTION / ELECTION | | | |
| 17 | 05/10/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 16 | 04/10/2007 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 15 | 04/10/2007 | REFERENCE CAPTURE ON IDS | | | |
| 14.7 | 04/10/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 14 | 04/10/2007 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 13 | 01/17/2006 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 12 | 01/17/2006 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 11 | 05/10/2005 | REFERENCE CAPTURE ON IDS | | | |
| 10.7 | 05/10/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 10 | 05/10/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 9 | 05/09/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 8 | 05/09/2005 | APPLICATION IS NOW COMPLETE | | | |
| 7 | 04/20/2005 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 6 | 04/20/2005 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 5 | 03/01/2005 | NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED | | | |
| 3 | 02/10/2005 | CLEARED BY OIPE CSR | | | |
| 2 | 02/08/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 01/06/2005 | INITIAL EXAM TEAM NN | | | |

**Search Another: Application#** [ ] Search

## EXPLANATION OF PTA CALCULATION

## EXPLANATION OF PTE CALCULATION

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OFFICE OF PETITIONS

Lipsitz & McAllister, LLC
755 MAIN STREET
MONROE CT 06468

In re Application of :
Flock, et al. : LETTER REGARDING PTA
Application No. 11/031,474 :
Filed: January 6, 2005 :
Atty. Dkt. No.: HOE-859 :

This letter is in response to the "LETTER REGARDING PATENT TERM ADJUSTMENT," filed May 21, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed April 2, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 396 days. Applicants indicate that the correct adjustment is 302 days and indicate that the Office failed to assess a reduction in connection with the missing parts reply filed October 3, 2005.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 302 days, as indicated by applicants.

The adjustment of 476 days and the reduction of 80 days have been reviewed and do not contain any errors.

However, as indicated by applicants, the Office neglected to assess a reduction in connection with the missing parts reply filed October 3, 2005. In accordance with 37 CFR 1.704(b), the reduction commenced July 2, 2005, the day after the date that is three months after the date that the missing parts notice was mailed, and ended October 3, 2005, the date that the reply thereto was filed.

Accordingly, as of the time of allowance, the application is entitled to an adjustment of 305 days (adjustments totalling 476 days less reductions of 174 days).

As applicants are advising us of a potential error in providing too much patent term adjustment in this application, no fee is due in connection with this matter.

The patent term adjustment indicated in the patent will include any additional patent term accrued pursuant to §§ 1.702(a)(4) and 1.702(b).

This application is being forward to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the Alesia M. Brown at (571) 272-3205.

Kery A. Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Tuesday
Date: 12/16/2008

PALM INTRANET

Time: 08:11:56

| PTA Calculations for Application: 11/031474 | | | |
|---|---|---|---|
| Application Filing Date: | 01/06/2005 | PTO Delay (PTO): | 476 |
| Issue Date of Patent: | | Three Years: | 0 |
| Pre-Issue Petitions: | 0 | Applicant Delay (APPL): | 80 |
| Post-Issue Petitions: | 0 | Total PTA (days): | 302 |
| PTO Delay Adjustment: | -94 | | |

**File Contents History**

| Number | Date | Contents Description | PTO | APPL | START |
|---|---|---|---|---|---|
| 60 | 12/16/2008 | ADJUSTMENT OF PTA CALCULATION BY PTO | | 94 | |
| 52 | 04/02/2008 | MAIL NOTICE OF ALLOWANCE | | | |
| 51 | 04/01/2008 | NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED | | | |
| 50 | 04/01/2008 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 49 | 04/01/2008 | DOCUMENT VERIFICATION | | | |
| 48 | 03/25/2008 | ISSUE REVISION COMPLETED | | | |
| 47 | 03/19/2008 | ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING | | | |
| 46 | 03/19/2008 | DOCUMENT VERIFICATION | | | |
| 45 | 03/19/2008 | NOTICE OF ALLOWABILITY | | | |
| 43 | 01/10/2008 | DATE FORWARDED TO EXAMINER | | | |
| 42 | 12/14/2007 | RESPONSE AFTER NON-FINAL ACTION | | 80 | 39 |
| 41 | 12/14/2007 | REQUEST FOR EXTENSION OF TIME - GRANTED | | | |
| 40 | 10/03/2005 | INFORMATION DISCLOSURE STATEMENT CONSIDERED | | | |
| 39 | 06/25/2007 | MAIL NON-FINAL REJECTION | 476 | | -1 |
| 38 | 06/21/2007 | NON-FINAL REJECTION | | | |
| 36 | 06/04/2007 | IFW TSS PROCESSING BY TECH CENTER COMPLETE | | | |
| 35 | 06/04/2007 | CASE DOCKETED TO EXAMINER IN GAU | | | |
| 34 | 10/03/2005 | PRELIMINARY AMENDMENT | | | |
| 33 | 06/01/2007 | TRANSFER INQUIRY TO GAU | | | |
| 32 | 04/20/2007 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 31 | 04/19/2007 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |

| | | | | | |
|---|---|---|---|---|---|
| 30 | 03/16/2007 | MISCELLANEOUS INCOMING LETTER | | | |
| 29 | 03/16/2007 | TRANSFER INQUIRY TO GAU | | | |
| 28 | 02/17/2007 | TRANSFER INQUIRY TO GAU | | | |
| 27 | 12/06/2006 | TRANSFER INQUIRY TO GAU | | | |
| 26 | 10/03/2005 | REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED) | | | |
| 25 | 10/03/2005 | REFERENCE CAPTURE ON IDS | | | |
| 24.7 | 10/03/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 24 | 10/03/2005 | INFORMATION DISCLOSURE STATEMENT (IDS) FILED | | | |
| 23 | 03/24/2006 | MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT | | | |
| 22 | 03/24/2006 | MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT | | | |
| 21 | 03/10/2006 | MISCELLANEOUS INCOMING LETTER | | | |
| 20 | 12/07/2005 | TRANSFER INQUIRY TO GAU | | | |
| 19 | 10/17/2005 | APPLICATION RETURN FROM OIPE | | | |
| 18 | 10/17/2005 | APPLICATION IS NOW COMPLETE | | | |
| 17 | 10/17/2005 | APPLICATION RETURN TO OIPE | | | |
| 16 | 10/17/2005 | APPLICATION RETURN FROM OIPE | | | |
| 15 | 10/17/2005 | APPLICATION IS NOW COMPLETE | | | |
| 14 | 10/17/2005 | APPLICATION RETURN TO OIPE | | | |
| 13 | 10/17/2005 | APPLICATION DISPATCHED FROM OIPE | | | |
| 12 | 10/17/2005 | APPLICATION IS NOW COMPLETE | | | |
| 11 | 10/03/2005 | PAYMENT OF ADDITIONAL FILING FEE/PREEXAM | | | |
| 9 | 10/03/2005 | A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC | | | |
| 8 | 10/03/2005 | TRANSLATION OF CLAIMS INTO ENGLISH | | | |
| 7 | 10/03/2005 | APPLICANT HAS SUBMITTED NEW DRAWINGS TO CORRECT CORRECTED PAPERS PROBLEMS | | | |
| 6 | 10/03/2005 | TRANSLATION OF SPECIFICATION INTO ENGLISH | | | |
| 5 | 04/13/2005 | CLEARED BY L&R (LARS) | | | |
| 3 | 02/08/2005 | REFERRED TO LEVEL 2 (LARS) BY OIPE CSR | | | |
| 2 | 02/05/2005 | IFW SCAN & PACR AUTO SECURITY REVIEW | | | |
| 1 | 01/06/2005 | INITIAL EXAM TEAM NN | | | |

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## EXPLANATION OF PTA CALCULATION

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/23/09

TO SPE OF : ART UNIT 1648 Li, BAO

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/031482 Patent No.: 7429643

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:** _____

ROBERT MONDESI
SUPERVISORY PATENT EXAMINER

SPE — Art Unit 1648

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Townsend And Townsend And Crew, LLP
Two Embarcadero Center, Eighth Floor
San Francisco, CA 94111-3834

**COPY MAILED**

AUG 18 2006

**OFFICE OF PETITIONS**

In re Application of
Vasudevan GANESAN
Application No. 11/031,498
Filed: January 6, 2005
Attorney Docket No. 025717-000110US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 22, 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 Ardeshir Tabibi on behalf of all attorneys of record who are associated with customer No. 20350.

All attorneys/agents associated with the Customer Number 20350 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 26, 2006 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Vasudevan Ganesan
c/o HAVA CORP
19500 Pruneridge Avenue, Suite 6111
Cupertino, CA 95014

cc: Jonathan Owens
162 North Wolfe Road
Sunnyvale, CA 94086

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VASUDEVAN GANEASAN
C/O HAVA CORP
19500 PRUNERIDGE AVENUE
SUITE 6111
CUPERTINO, CA 95014

**COPY MAILED**

JUN 1 2 2008

**OFFICE OF PETITIONS**

In re Application of :
Vasudevan Ganeasan :
Application No. 11/031,498 : ON PETITION
Filed: January 6, 2005 :
Attorney Docket No. 025717-000110US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 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 January 25, 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 April 26, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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 Jonathan O. Owens 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. On the other hand, the Change of Correspondence Address filed on November 23, 2007, cannot be accepted.

A review of the record discloses that Jonathan O. Owens was never given an appropriate power of attorney or authorization of agent to prosecute the above application. Therefore, as Mr.

Owens was never given a power of attorney or authorization of agent, he cannot change the correspondence address of record; appoint any other attorneys, agents or associates to prosecute this application.

A courtesy copy of this decision is being mailed to petitioner using the address given on November 23, 2007. Nevertheless, all future correspondence 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) 272-1642.

This application is being referred to Technology Center AU 2618 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JONATHAN O. OWENS
HAVENSTOCK & OWENS, LLP
162 NORTH WOLFE ROAD
SUNNYVALE, CA 94086

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SEP 22 2005

TECHNOLOGY CENTER 3600

CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

In re application of
Brian Chaput
Application No. 11/031,503 :
Filed: January 07, 2005 :
For: NON-INVERTING CROSS-GAIN MODULATION-BASED WAVELENGTH CONVERTER :

DECISION ON REQUEST FOR WITHDRAWAL OF ATTORNEY

This is a decision on the request filed on July 25, 2005, under 37 CFR 1.36 and MPEP 402.06, requesting permission to withdraw as the attorney of record in the above-identified application.

The request is **NOT APPROVED**.

Under 37 CFR 1.36 an attorney may withdraw only upon application to and approval by the Commissioner. It should be noted that a withdrawal is effective when approved, not when filed. For approval of such a request the following conditions must be met:

A) Each attorney of record must sign the notice of withdrawal, or the notice must contain a clear indication of one attorney signing on behalf of another, because the Office does not recognize law firms;
B) There must be at least 30 days between approval of the withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a);
C) A proper reason for the withdrawal as enumerated in 37 CFR 10.40(b) or subsection (1)-(6) of 37 CFR 10.40(c) must be provided;
D) The applicant or patent owner must have been notified of the withdrawal as provided for in 37 CFR 1.36.

11/031,503

The request to withdraw as attorney is not accepted in the above-identified application because the request lacks condition B) above.

As to condition B), The statement included in the request, "The attorneys and agents associated with customer number 22830 have completed the specific tasks for which they were retained in this matter," is not a valid reason. A more specific reason or referencing a specific portion of 37 CFR 10.40(c), is required for approval.

Kenneth J. Dorner
Special Programs Examiner
Patent Technology Center 3600
(571) 272-6587

KJD/slb: 08/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

KEN BURRASTON
KIRTON & MCCONKIE
PO BOX 45120
SALT LAKE CITY UT 84145-0120

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JUN 24 2008

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Charles A. Miller | : | |
| Application No. 11/031,504 | : | ON PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. P203-US | : | |

This is a decision on the petition to revive under 37 CFR 1.137(b), filed March 24, 2008.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the issue fee in response to the Notice of Allowance, mailed on November 20, 2007. This Notice set a statutory period for reply of three (3) months. No issue fee having been received, the application became abandoned on February 21, 2008. The Office mailed a Notice of Abandonment on March 19, 2008.

With the instant petition, petitioner paid the petition, issue, and publication fees, and made the proper statement of unintentional delay.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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PERKINS COIE LLP
Attn: Judy M. Kadoura
P.O. Box 1247
Seattle, WA 98111-1247

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : David J. Thomsen | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7647322 | : RECALCULATION of PATENT |
| **Issue Date** | : 01/12/2010 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,515 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

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OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Erol et al. | : | DECISION ON PETITION |
| Application No. 11/031,516 | : | |
| Filed: 7 January, 2005 | : | |
| Atty Docket No. 20412-09671 | : | |

This is a decision on the petition under 37 CFR 1.137(f),[1] filed on 26 May, 2006, to revive the above-identified application.

The petition is **dismissed** as inappropriate for the reasons stated below.

The record discloses that, on 7 January, 2005, the date of filing of the instant application, a Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) was filed certifying that "the invention disclosed in the attached **application has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing."

The present petition was filed on 26 May, 2006. Petitioners state that an international or foreign application corresponding to the instant application was filed on 24 September, 2004, a date prior to the date that the instant application was filed. In this regard, the petition contained a Notice of Foreign or International Filing pursuant to 35 U.S.C. 122(b)(2)(B)(iii) stating that subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., the Patent Cooperation Treaty), that requires publication of applications

[1] 37 CFR 1.137(f) provides for revival of a nonprovisional application which became abandoned pursuant to the provisions of 35 U.S.C.§ 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing.

eighteen months after the filing. The filing of the subsequently filed foreign or international application is 24 September, 2004.

The instant nonprovisional application did not become abandoned as a result of the filing of a corresponding application filed in another country, or under a multilateral international agreement, **subsequent** to the filing of the present application. In this regard, 35 U.S.C. § 122(b)(2)(B)(iii) states:

> An applicant who has made a request under clause (i) but who **subsequently files, in a foreign country or under a multilateral international agreement** specified in clause (i), an application directed to the invention disclosed in the application filed in the Patent and Trademark Office, shall notify the Director of such filing not later than 45 days **after the date of the filing of such foreign or international application**. A failure of the applicant to provide such notice within the prescribed period shall result in the application being regarded as abandoned, unless it is shown to the satisfaction of the Director that the delay in submitting the notice was unintentional [emphasis supplied].

The facts of this case are that the subject application was filed on 7 January, 2005, and the corresponding foreign or international application was filed on 24 September, 2004. The statute does not provide for the situation where a certification under 35 U.S.C. § 122(b)(2)(B)(i) was made, despite the fact that an application was filed on a prior date in another country or under the multilateral international agreement. In view of petitioner's statement that the corresponding foreign or international application was filed on 24 September, 2004, a date prior to the date of filing of the subject application, the filing of the corresponding foreign application cannot be considered to have been filed **subsequent** to the filing of the subject application in the United States. The statute at 35 U.S.C. § 122(b)(2)(B)(iii) only provides for revival in the situation where a certification was made under 35 U.S.C. § 122(b)(2)(B)(i) at the time of filing the application and an application was **subsequently** filed in a foreign country without notifying the Office within 45 days of the filing thereof.

Since the corresponding foreign or international application was either filed on the same date or filed prior to the filing date

(this would be true if the corresponding foreign or international application has a filing date of 24 September, 2004) as the subject application, this application did not become abandoned pursuant to the provisions of 35 U.S.C. § 122(b)(2)(B)(iii). Therefore, a petition to revive pursuant to the provisions of 37 CFR 1.137(f) is inappropriate and, consequently, must be dismissed.

As requested, the Request and Certification Under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing, reflecting a projected publication date of 16 November, 2006, is enclosed for petitioners' records.

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.[2] Accordingly, the required petition fee has been received.

The application is being referred to Technology Center Art Unit 2625 for further processing.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

[2] *See* 35 U.S.C. § 41(c)(7).

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/RECEIPT DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO. |
|---|---|---|---|
| 11/031,516 | 01/07/2005 | Berna Erol | 20412-09671 |

**CONFIRMATION NO. 2538**

00758
FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW, CA 94041

Date Mailed: 08/08/2006

## Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 11/16/2006.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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Date Mailed : October 13, 2009

Patent No. :7289259
Inventor :Berna Erol et al.
Patent Issued :March 17, 2009
Title :SEMANTIC CLASSIFICATION AND ENHANCEMENT PROCESSING OF IMAGES
:FOR PRINTING APPLICATIONS.

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.

Review of the application file reveals that correspondence to support entry of reference data as noted in applicants' request for correction is not found in the records of the Patent and Trademark office. Accordingly, a signed and dated copy of applicants 1449 or PTO-892 reflecting the requested references considered by the examiner is required for further consideration. If omitted references were submitted by applicant, a copy of the receipt obtained from this office should be included.

In view of of the foregoing, applicants request is hereby denied. Any telephone inquiries concerning this communication should be directed to Ms. A. Green at (703) 756-7541.

Mary Diggs, Supervisor
Decisions and Certificates of
Correction Branch
(703) 756-1580 or (703) 756- 1541

Edgar Perez,
Fenwick & West LLP
Silicon Valley Center
801 CAalifornia Street
Mountain View, Ca 94041

/arg

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MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

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MAR 22 2006

OFFICE OF PETITIONS

In re Application of :
William David Cornwell et al. :
Application No. 11/031,517 :
Filed: January 7, 2005 :
Attorney Docket Number: 9005/63 :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b)[1], filed February 21, 2006, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts mailed March 21, 2005, which set a two (2) month shortened statutory period for reply
No reply having been filed, this application became abandoned May 23, 2005. Accordingly, the Notice of Abandonment was mailed December 8, 2005.

The filing of the response to the Notice to File Missing Parts mailed January 17, 2006 is acknowledged. All other requirements having been met , this matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1]Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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**251 NORTH AVENUE WEST**
**2ND FLOOR**
**WESTFIELD NJ 07090**

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AUG 01 2007

OFFICE OF PETITIONS

In re Application of

**CORNWELL,** William D. et al.
Application No. 11/031,517
Filed: January 07, 2005
Attorney Docket No. **9005/63**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 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 Stuart H. Mayer on behalf of all attorneys of record who are associated with customer No. 27774. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **WILLIAM D. CORNWELL**
**101 FAULKNER ST.**
**HOOLE, CHESTER CH2 3BG**
**UNITED KINGDOM**

cc: **CHOATE, HALL & STEWART LLP**
**TWO INTERNATIONAL PLACE**
**BOSTON, MA 02110**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/031,517 | 01/07/2005 | William David Cornwell | 9005/63 |

**CONFIRMATION NO. 2505**

*OC000000025045035*

27774
MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

Date Mailed: 07/26/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Michelle R. Easer

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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**2ND FLOOR**
**WESTFIELD NJ 07090**

**COPY MAILED**

AUG 0 1 2007

**OFFICE OF PETITIONS**

In re Application of

**NAGEL,** Jonathan A.
Application No. 11/031,518
Filed: January 07, 2005
Attorney Docket No. **9005/50**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 18, 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 Stuart H. Mayer on behalf of all attorneys of record who are associated with customer No. 27774. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
Petitions Examiner
Office of Petitions

cc: **JONATHAN A. NAGEL**
**416 CLINTON ST.**
**BROOKLYN, NEW YORK 11031**

cc: **CHOATE, HALL & STEWART LLP**
**TWO INTERNATIONAL PLACE**
**BOSTON, MA 02110**

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| APPLICATION NUMBER | FILING OR 371 (c) DATE | FIRST NAMED APPLICANT | ATTY. DOCKET NO./TITLE |
|---|---|---|---|
| 11/031,518 | 01/07/2005 | Jonathan A. Nagel | 9005/50 |

**CONFIRMATION NO. 2506**

*OC000000025045300*

27774
MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD, NJ 07090

Date Mailed: 07/26/2007

## NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/18/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

---

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON, MA 02110

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AUG 14 2008

In re Application of

Jonathan A. Nagel

Application No. 11/031,518

Filing Date: January 7, 2005

Attorney Docket No. 2006669-0108

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 23, 2008.

The petition is **GRANTED**.

This application became abandoned for failure to respond in a timely manner to the non-final Office action mailed October 4, 2007. The notice allowed a shortened statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on January 5, 2008. A Notice of Abandonment was mailed April 17, 2008.

The amendment filed April 23, 2008, is noted.

It is noted that 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. If 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.

The application is being forwarded to Technology Center 2600, GAU 2613 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

| | | |
|---|---|---|
| **Applicant** | : Craig William Fellenstein | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7590623 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/15/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,543 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : ISSUE CERTIFICATE OF CORRECTION |
| | | : |

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **767** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
SUITE 370
ALEXANDRIA, VA 22314

MAILED
DEC 2 7 2005
Technology Center 2100

In re Application of: Fujimoto, et al.
Application No. 11/031,556
Filed: January 7, 2005
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the petition to make special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination, filed on May 24, 2005.

The Petition is **DISMISSED**.

M.P.E.P. §708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

***(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.***

With respect to requirement (e) above, the petition does not contain a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references. Petitioner should ensure that the above discussion is directed to how the language of ***each of*** the independent claims is specifically distinguishable and patentable from the references provided in requirement (d) above. Note, with particular reference to independent claims 21, 27 and 33, a careful review of the claim recitation identified by the Petitioner, i.e. "plural connectors for *increasing and decreasing* the number of processor units or interface units" does not appear in those claims identified. Petitioner should ensure that the comparison of language that defines over the most closely related reference(s) is consistent with the claim language present in the instant application.

Because the petition fails to satisfy all of the criteria set forth above, the petition to make special is **DISMISSED**.

Any requests for reconsideration must be filed within TWO (2) MONTHS from the mailing date of this decision.

The application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Brian L. Johnson
Special Program 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
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C.
1800 DIAGONAL ROAD
Suite 370
ALEXANDRIA, VA 22314

**MAILED**

SEP 28 2006

**TECHNOLOGY CENTER 2100**

In re Application of: FUJIMOTO, et al.
Application No. 11/031,556
Filed: 7 January 2005
For: STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a decision on the renewed petition filed 23 February 2006 to make the above-identified Application special under 37 CFR § 102(d) and MPEP § 708.02(VIII): Accelerated Examination.

The Petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. The pre-examination search must be directed to the invention as claimed in the application for which special status is requested. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petition to Make Special **GRANTED** since all of the requirements for special status under MPEP § 708.02(VIII) have been met.

The application is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. §708.02, Section VIII. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. §1309.

Brian L. Johnson
Special Programs Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

GO

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**GENERAL ELECTRIC COMPANY**
**ANDREW C HESS**
**GE AIRCRAFT ENGINES**
**ONE NEUMANN WAY M/D H17**
**CINCINNATI, OH 45215-6301**

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MAR 2 8 2006

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Shawn Michael Gallagher et al | : | |
| Application No. 11/031,571 | : | ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. GE136062US34 | : | |

This is a decision on the petition under 37 CFR 1.137(b), filed January 17, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee/publication fee in a timely manner in reply to the Notice of Allowance mailed June 6, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on September 6, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue fee/publication fee; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the issue fee/publication fee are accepted as having been unintentional delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Publishing Division.

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

cc: GERALD W. SPINKS
P.O. BOX 5242
GLACIER, WA 98244

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Michael Long Crawford | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7593501 | : RECALCULATION of PATENT |
| **Issue Date** | : 09/22/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,576 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/06/2005 | : 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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**HUGHES HUBBARD & REED LLP**
**ONE BATTERY PARK PLAZA**
**NEW YORK, NY 10004**

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MAR 26 2008

| | | |
|---|---|---|
| In re Application of | : | |
| Beth SHAK | : | |
| Application No. 11/031,579 | : | ON PETITION |
| Filed: January 6, 2005 | : | |
| Attorney Docket No. 13258.0001 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 31, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of April 13, 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 July 14, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405, and the submission required by 37 CFR 1.114; (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at (571) 272-6735.

This application is being referred to Technology Center AU 3765 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

April Wise
Petitions Examiner
Office of Petitions

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**BLAKELY SOKOLOFF TAYLOR & ZAFMAN**
**1279 OAKMEAD PARKWAY**
**SUNNYVALE CA 94085-4040**

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MAR 3 1 2008

**OFFICE OF PETITIONS**

| | | |
|---|---|---|
| In re Application of | : | |
| Rick Lowe et al. | : | |
| Application No. 11/031,582 | : | DECISION ON PETITION |
| Filed: January 06, 2005 | : | |
| Attorney Docket No. 6897P014 | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 10, 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 26, 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 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 2163 for appropriate action on the concurrently filed amendment.

David Bucci
Petitions Examiner
Office of Petitions

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P.O. Box 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 | : | |
| Karpoff et al. | : | |
| Application No. 11/031,628 | : | DECISION GRANTING PETITION |
| Filed: 6 January, 2005 | : | |
| Atty Dckt No. 019417-003720US | : | |

This is a decision in reference to the petition under 37 CFR 1.10(d) filed on 10 June, 2005, which is treated as a petition filed under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of 6 January, 2005, rather than the currently-accorded filing date of 5 January, 2005.

The petition is **granted**.

Petitioners request the later filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on 6 January, 2005, pursuant to the requirements of 37 CFR 1.10. In support, petitioners submitted a copy of Express Mail receipt number EV338473581US (the same Express Mail number found on the utility patent application transmittal accompanying the original application papers) bearing a handwritten "date-in" of "1 5 6" and a USPS sales receipt dated 1/6/05 bearing the above-identified Express Mail number.

Petitioners should note that the sales receipt indicates only that petitioners' paid for the Express Mail shipment on 6 January, 2005, not that the Express Mail envelope was accepted by the USPS as deposited on that date. Nevertheless, a review of the U.S. Postal Service Track & Confirm database reveals that Express Mail Item EV338473581US was accepted by the USPS on 6 January, 2005.

As such, the showing of record is that the correct date of deposit in Express Mail is 6 January, 2005.

In view of the above, the petition is granted. No fee is required and none has been charged.

The application is being referred to the Office of Initial Patent Examination (OIPE) for correction of the filing date to 6 January, 2005, and for issuance of a corrected Filing Receipt.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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DEC 07 2009

OFFICE OF PETITIONS

Guoblao Zhang
P.O. Box 6182
Stateline NV 89449-6182

| | | |
|---|---|---|
| In re Application of<br>Guoblao Zhang<br>Application No.: 11/031637<br>Filing or 371(c) Date: 01/07/2005<br>Title of Invention:<br>CIRCUITS OF THREE-DIMENSIONAL<br>MASK-PROGRAMMABLE MEMORY | :<br>:<br>:<br>:<br>:<br>:<br>: | DECISION ON<br>PETITION |

This is a decision in response to the Petition to Withdraw Holding of Abandonment, filed October 9, 2009. The petition is properly treated as a petition under 37 CFR 1.181.

This Petition is hereby **dismissed**.

Any further 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 [insert the applicable code section]." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

Background

This application became abandoned for failure to timely pay the issue and publication fees on or before September 11, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed June 11, 2009. Accordingly, the date of abandonment of this application is September 12, 2009.

The present petition

Applicant files the present petition and provides that the Fee Transmittal Form was mailed from China on September 3, 2009, but was sent to the Applicant's address in the U.S. by mistake. Applicant provides that upon realizing that no fees had been charged to Applicant's credit card, Applicant re-signed the Fee Transmittal Form on September 29, 2009, and also included a one (1) month extension of time fee in the Fee Letter. Applicant requests withdrawal of the abandonment of the present application.

Applicable Law, Rules and MPEP

37 CFR 1.311. Notice of Allowance, provides,

> (a) If, on examination, it appears that the applicant is entitled to a patent under the law, a notice of allowance will be sent to the applicant at the correspondence address indicated in § 1.33. The notice of allowance shall specify a sum constituting the issue fee which must be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. The sum specified in the notice of allowance may also include the publication fee, in which case the issue fee and publication fee (§ 1.211(e)) must both be paid within three months from the date of mailing of the notice of allowance to avoid abandonment of the application. *This three-month period is not extendable.* (Emphasis supplied).

Analysis/conclusion

In this instance, applicants failed to file a complete and proper reply as the condition of the application required. A review of the Application file history reveal that Applicant's failed to submit the appropriate extension fees required. As such, the reply was not both complete and proper. Accordingly, the application is abandoned.

Applicant is advised that, as provided in the Manual of Patent Examining Procedure,

> [w]here an applicant contends that the application is not in fact abandoned (e.g., there is disagreement as to the sufficiency of the reply, or as to controlling dates), 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 (e.g., the applicant's contentions merely involve the cause of abandonment), a petition under 37 CFR 1.137 (accompanied by the appropriate petition fee) is necessary to revive the abandoned application.

MPEP 711.03(c).

Here, Applicant provides that the issue and publication fees were not paid within three (3) months. As such, there is no dispute as to the status of the application. The application is abandoned. A petition to revive the application (and fee) is the appropriate course of action.

Alternate Venue

Applicant is strongly urged to file a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required 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 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).

Refund of extension of time fee submitted

An extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. Applicants may request a refund of extension of time fees, or request that this Office apply the extension of time fee submitted towards the fee for a petition to revive the 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/
Derek L. Woods
Attorney
Office of Petitions

Enclosure: PTOL /SB/64 Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b)

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**GUOBLAO ZHANG**
**P.O. BOX 6182**
**STATELINE NV 89449-6182**

MAILED
JUN 07 2010

OFFICE OF PETITIONS

| | | |
|---|---|---|
| In re Application of | : | |
| Guobiao ZHANG | : | |
| Application No. 11/031,637 | : | DECISION ON PETITION |
| Filed: January 07, 2005 | : | |
| Attorney Docket No. **GB8Q** | : | |

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 24, 2009, to revive the above-identified application.

The petition under 37 CFR 1.137b is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 11, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed June 11, 2009. Accordingly, the date of abandonment of this application is September 12, 2009. A Notice of abandonment was mailed September 30, 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 $755 and the publication fee of $300, (2) the petition fee of $810; and (3) a proper statement of unintentional delay. Accordingly the Issue Fee payment is accepted as having been unintentionally delayed.

The extension of time fee of $65, submitted on October 01, 2009, has been applied towards the petition fee due, as authorized by the applicant in the letter filed concurrently with instant petition.

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 Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office of Data Management for processing into a patent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: **GUOBIAO ZHANG**
**P.O. BOX 1854**
**CORVALLIS OR 97339**

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 : 5/13/2010
Patent No. : 7,702,611 B2
Serial No. : 11/031,641
Inventor(s) : Chi et al.
Issued : April 20, 2010
Title : **METHOD FOR AUTOMATICALLY PERFORMING CONCEPTUAL HIGHLIGHTING IN ELECTRONIC TEXT**
Docket No. : **20041272-US-NP**

Re: Request for Reconsideration

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<br>Commissioner for Patents<br>Post Office Box 1450<br>Alexandria, VA 22313-1450 |
| By hand: | Customer Service Window<br>Mail Stop Petitions<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |
| By fax: | 571-273-8300<br>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.

**Ernest C. White, *LIE***
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

FLIESLER MEYER LLP
650 CALIFORNIA STREET
14TH FLOOR
SAN FRANCISCO CA 94108

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Document Description: Transmittal Letter

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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.

# TRANSMITTAL FORM

*(to be used for all correspondence after initial filing)*

Total Number of Pages in This Submission: 8

| | |
|---|---|
| Application Number | 11/031,641 |
| Filing Date | 2005-01-07 |
| First Named Inventor | Ed H. Chi |
| Art Unit | 2164 |
| Examiner Name | Melissa M. Chojnacki |
| Attorney Docket Number | 20041272-US-NP |

## ENCLOSURES *(Check all that apply)*

- [x] Fee Transmittal Form
  - [ ] Fee Attached
- [ ] Amendment/Reply
  - [ ] After Final
  - [ ] Affidavits/declaration(s)
- [ ] Extension of Time Request
- [ ] Express Abandonment Request
- [ ] Information Disclosure Statement
- [ ] Certified Copy of Priority Document(s)
- [ ] Reply to Missing Parts/ Incomplete Application
  - [ ] Reply to Missing Parts under 37 CFR 1.52 or 1.53
- [ ] Drawing(s)
- [ ] Licensing-related Papers
- [ ] Petition
- [ ] Petition to Convert to a Provisional Application
- [ ] Power of Attorney, Revocation Change of Correspondence Address
- [ ] Terminal Disclaimer
- [ ] Request for Refund
- [ ] CD, Number of CD(s) _____
  - [ ] Landscape Table on CD
- [ ] After Allowance Communication to TC
- [ ] Appeal Communication to Board of Appeals and Interferences
- [ ] Appeal Communication to TC **(Appeal Notice, Brief, Reply Brief)**
- [ ] Proprietary Information
- [ ] Status Letter
- [x] Other Enclosure(s) (please identify below):
  Request under 37 CFR 3.81(b); Certificate of Correction

Remarks

## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

| | | | |
|---|---|---|---|
| Firm Name | Fliesler Meyer LLP Customer No. 23910 | | |
| Signature | | | |
| Printed name | Nathan L. Feld | | |
| Date | June 2, 2010 | Reg. No. | 59,725 |

## CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below: ATTN: Office of Petitions Fax No.: 571-273-8300

| | | | |
|---|---|---|---|
| Signature | | | |
| Typed or printed name | Nathan L. Feld | Date | June 2, 2010 |

This collection of information is required by 37 CFR 1.5. 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 and1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **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.*

Attorney Docket No.: XERX-01052US0
NFeld/wp/XERX/1052US0/1052US0_Transmittal Form.pdf

# 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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PTO/SB/17i (07-09)
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# PROCESSING FEE
## Under 37 CFR 1.17(i)
## TRANSMITTAL
(Fees are subject to annual revision)

**Send completed form to: Commissioner for Patents**
**P.O. Box 1450, Alexandria, VA 22313-1450**

| | |
|---|---|
| Application Number | 11/031,641 |
| Filing Date | 2005-01-07 |
| First Named Inventor | Ed H. Chi |
| Art Unit | 2164 |
| Examiner Name | Mellissa M. Chojnacki |
| Attorney Docket Number | 20041272-US-NP |

**Enclosed is a paper filed under 37 CFR** 3.81(b) **that requires a processing fee (37 CFR 1.17(i)).**
**Payment of $** 130 **is enclosed.**
This form should be included with the above-mentioned paper and faxed or mailed to the Office using the appropriate Mail Stop, if applicable. *For transmittal of petition fees under 37 CFR 1.17(f), (g) or (h), see form PTO/SB/17p.*

**Payment of Fees** (small entity amounts are NOT available for the processing fees)

☑ The Commissioner is hereby authorized to charge the following fees to Deposit Account No. 06-1325:
☑ processing fee under 37 CFR 1.17(i) ☑ any deficiency of fees and credit of any overpayments

☐ Check in the amount of $_____ is enclosed.

☐ Payment by credit card (Form PTO-2038 or equivalent enclosed). Do not provide credit card information on this form.

**Processing Fees under 37 CFR 1.17(i): Fee $130 Fee Code 1808 for all,**
**Except for § 1.221 papers (Fee Code 1803)**

For papers filed under:
**§ 1.28(c)(3)** - for processing a non-itemized fee deficiency based on an error in small entity status.
**§ 1.41** - for supplying the name or names of the inventor or inventors after the filing date without an oath or declaration as prescribed by § 1.63, except in provisional applications.
**§ 1.48** - for correcting inventorship, except in provisional applications.
**§ 1.52(d)** - for processing a nonprovisional application filed with a specification in a language other than English.
**§ 1.53(b)(3)** - to convert a provisional application filed under § 1.53(c) into a nonprovisional application under § 1.53(b).
**§ 1.55** - for entry of late priority papers.
**§ 1.71(g)(2)** – to enter an amendment to the specification for purposes of 35 U.S.C. 103(c)(2) if not filed within the cited time periods
**§ 1.99(e)** - for processing a belated submission under § 1.99.
**§ 1.103(b)** - for requesting limited suspension of action, continued prosecution application (§ 1.53(d)).
**§ 1.103(c)** - for requesting limited suspension of action, request for continued examination (§ 1.114).
**§ 1.103(d)** - for requesting deferred examination of an application.
**§ 1.217** - for processing a redacted copy of a paper submitted in the file of an application in which a redacted copy was submitted for the patent application publication.
**§ 1.221** - for requesting voluntary publication or republication of an application. **Fee Code 1803**
**§ 1.291(c)(5)** - for processing a second or subsequent protest by the same real party in interest.
**§ 1.497(d)** - for filing an oath or declaration pursuant to 35 U.S.C. 371(c)(4) naming an inventive entity different from the inventive entity set forth in the international stage.
**§ 3.81** - for a patent to issue to assignee, assignment submitted after payment of the issue fee.

| | |
|---|---|
| Signature | June 2, 2010 |
| | Date |
| Nathan L. Feld | 59,725 |
| Typed or printed name | Registration No., if applicable |

This collection of information is required by 37 CFR 1.17. 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 5 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.**

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Attorney Docket No.: XERX-01052US0
NFeld/wp/XERX/1052US0/1052US0_Processing Fee Transmittal.pdf

06/03/2010 HMARZI1 00000047 061325 11031641
01 FC:1464 130.00 DA

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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.
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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.
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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | | | |
|---|---|---|---|
| In re Patent | | PATENT | |
| Patent No.: | 7,702,611 | | |
| Inventor(s): | Ed H. Chi et al. | Art Unit: | 2164 |
| Issue Date: | April 20, 2010 | Examiner: | Chojnacki, Mellissa M. |
| Appl. No.: | 11/031,641 | | |
| Filed: | January 7, 2005 | | |
| Title: | Method for Automatically Performing Conceptual Highlighting in Electronic Text | **Customer No. 23910** | |

**REQUEST UNDER 37 CFR § 3.81(b)**

Mail Stop PETITIONS
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

It is hereby certified that errors appear in the above-identified patent. The corrections to be made in the patent are presented on the attached PTO-SB44 form.

| **PATENT** |
|---|
| Assignee: ~~Xerox Corporation, Norwalk, CT (US)~~ Palo Alto Research Center, Palo Alto, CA (US) |

✓ The assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 on August 1, 2005 and recorded at Reel 016599 / Frames 00018-00019, before the issuance of the patent on April 20, 2010.

✓ Pursuant to 37 C.F.R. § 1.323, the undersigned attorney of record, as a representative of the patentee or the patentee's assignee, requests that a Certificate of Correction be issued.

✓ The fee set forth in 37 C.F.R. § 1.20(a) was previously submitted for consideration of a Request for Certificate of Correction on May 6, 2010.

✓ The Commissioner is hereby authorized to charge $130.00 to Deposit Account No. 06-1325 for the professing fee set forth in 37 C.F.R. § 1.17(i).



Attorney Docket No.: XERX-01052US0
M:\nfeld\wp\XERX\1052\1052US0\1052US0_CertofCorrection_trans_0610.wpd

PAGE 5/8 * RCVD AT 6/2/2010 7:49:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/6 * DNIS:2738300 * CSID:415 362 2928 * DURATION (mm-ss):02-00

✓ The Commissioner is hereby authorized to charge any deficiencies or credit overpayment to Deposit Account No. 06-1325.

Respectfully submitted,

Date: June 2, 2010

By: _____

Nathan L. Feld
Reg. No. 59,725

Customer No. 23910
FLIESLER MEYER LLP
650 California Street, 14th Floor
San Francisco, California 94108
Telephone: (415) 362-3800



Attorney Docket No.: XERX-01052US0
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PAGE 6/8 * RCVD AT 6/2/2010 7:49:18 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/6 * DNIS:2738300 * CSID:415 362 2928 * DURATION (mm-ss):02-00

PTO/SB/44 (09-07)
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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. : 7,702,611

APPLICATION NO.: 11/031,641

ISSUE DATE : April 20, 2010

INVENTOR(S) : Ed H. Chi 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:

The assignee should be amended as follows:

Assignee: ~~Xerox Corporation, Norwalk, CT (US)~~ Palo Alto Research Center, Palo Alto, CA (US)

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Fliesler Meyer LLP
650 California Street, 14th Floor
San Francisco, CA 94108

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.*

Attorney Docket No.: XERX-01052US0
NFeld/wp/XERX/1052US0/1052US0_CertofCorr.pdf

# Privacy Act Statement

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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.
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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.
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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.
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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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**SIDLEY AUSTIN BROWN & WOOD LLP**
**555 W. FIFTH STREET, SUITE 4000**
**LOS ANGELES, CA 90013**

| | | |
|---|---|---|
| In re Application of | : | |
| John D. King | : | |
| Application No. 11/031,648 | : | DECISION ON PETITION |
| Filed: January 1, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 05-00506(04) | : | FROM RECORD |
| | : | |

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed February 11, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Bryant R. Gold and Laura Haburay Bishop 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.

A power of attorney was filed on August 31, 2006 appointing new counsel of record in this application.

All future communications from the Office will continue to be directed to the above-listed address until otherwise properly notified by the applicant.

There are no outstanding Office actions at this time.

Telephone inquires concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Bryant R. Gold
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

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P.O. Box 1450
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BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :

John COKER, et al. :
Application No. 11/031,667 : DECISION ON PETITION
Filed: January 6, 2005 : TO WITHDRAW
Attorney Docket No. 5306P010C : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

Arnella Au
Petitions Examiner
Office of Petitions

cc: Sam Campbell
Campbell, Stephenson Asocolese, LLP
4807 Spicewood Spring Road
Bldg. 4, Suite 201
Austin, TX 78759

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P.O. BOX 10395
CHICAGO, IL 60610

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| | | |
|---|---|---|
| In re Application of | : | |
| George Y. McLean | : | |
| Application No. 11/031,669 | : | DECISION ON PETITION |
| Filed: January 5, 2005 | : | TO WITHDRAW |
| Attorney Docket No. 3614-170 | : | 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, 2006.

The petition is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Vincent J. Gnoffo on behalf of all attorneys/agents of record.

All attorneys/agents of record have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the named inventor at the below-listed address until otherwise properly notified by the applicant.

A power of attorney submitted on April 13, 2006 was improper. In this regard, compliance with 37 CFR 3.73(b) has not been satisfied in that the reel and frame number where the recorded assignment appears in the assignment records of the USPTO has not been provided. Therefore, in order for the power of attorney to be acceptable, compliance with 37 C.F.R. 3.73(b) must be

satisfied. A form for complying with the provisions of 37 C.F.R. 3.73(b) may be found on the USPTO.gov website (Form No. PTO/SB/96).

All future communications from the Office will continue to be directed to the named inventor at the below-listed address.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

This application is being referred to Technology Center AU 2812 for examination in due course.

David Bucci
Petitions Examiner
Office of Petitions

cc: VEDDER PRICE KAUFMAN & KAMMHOLZ
222 N. LASALLE STREET
CHICAGO, IL 60601

GEORGE Y. MCLEAN
1393 WOODLAND AVENUE
MENLO PARK, CA 94025

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| | | |
|---|---|---|
| In re Application of | : | |
| David Alan Barr | : | DECISION GRANTING |
| Application No. 11/031,674 | : | PETITION |
| Filed: January 7, 2005 | : | |
| Attorney Docket No. KIDK01-00008 | : | |

This is a decision on the petition under 37 CFR 1.10, filed May 19, 2005, requesting that the above-identified application be accorded a filing date of January 7, 2005, rather than the presently accorded filing date of January 8, 2005.

Applicant requests the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on January 7, 2005, pursuant to the requirements of 37 CFR 1.10. In support, applicant provided, inter alia, a copy of the Express Mail label, receipt no. EV507966587US, showing a Date-In of January 7, 2005, which also includes a USPS date stamp receipt of January 7, 2005. Further, the petition is accompanied by a copy of the USPS Track/Confirm system information both showing that the package in question was accepted for deposit on January 7, 2005. The same Express Mail Number found on the original Utility Application Transmittal is located in the official file.

In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on January 7, 2005. Accordingly, the instant application file is entitled to a filing date of January 7, 2005, and has been so accorded.

The petition is granted. The $400 petition fee submitted is unnecessary and will be credited to petitioner's deposit account in due course.

This matter is being referred to Technology Center AU 3764 for examination in due course.

Telephone inquires specific to this matter 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
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF JOHN L. ISAAC
7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

COPY MAILED

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OFFICE OF PETITIONS

In re Application of
Carroll Johnson
Application No.11/031,679
Filed: January 8, 2005
Title of Invention: Break-free Safety Release Buckle and Fastener

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b) filed February 1, 2006 to revive the above-identified application.

This petition is hereby **Dismissed.**

Any request for reconsideration must be submitted within TWO (2) Months from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to file a response to a Notice to file Missing Parts of a Nonprovisional Application which was mailed on February 28, 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 April 29, 2005. A Notice of Abandonment was mailed on November 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(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). Petitioner has failed to provide the $65.00 surcharge for late filing fee and oath and declaration.

On renewed petition $65 should be submitted pursuant to 37 CFR 1.16(f).

The change of correspondence address has been entered.

Further Correspondence with respect to this matter should be addressed as follows:

| | |
|---|---|
| By mail: | Mail Stop Petition<br>Commissioner for Patents<br>P.O. Box 1450<br>Alexandria, VA 22313-1450 |
| By facsimile: | (571) 273-8300 |
| By delivery service:<br>(FedEx, UPS, DHL, etc.) | U.S. Patent and Trademark Office<br>Customer Service Window,<br>Randolph Building<br>401 Dulany Street<br>Alexandria, VA 22314 |

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAW OFFICE OF JOHN L. ISAAC
7114 W. JEFFERSON AVE.
SUITE 100
LAKEWOOD CO 80235-2309

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OFFICE OF PETITIONS

In re Application of
Carroll Johnson
Application No. 11/031,679
Filed: January 8, 2005
Title of Invention: Break-free Safety Release Buckle and Fastener

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed April 27, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on February 28, 2005. The Notice to File Missing Parts set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on April 29, 2005. A Notice of Abandonment was mailed on November 3, 2005. A petition to revive was dismissed on March 6, 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

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

Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

| | | |
|---|---|---|
| **Applicant** | : Raj Jhanwar | : DECISION ON REQUEST FOR |
| **Patent Number** | : 7581217 | : RECALCULATION of PATENT |
| **Issue Date** | : 08/25/2009 | : TERM ADJUSTMENT IN VIEW |
| **Appliction No** | : 11/031,692 | : OF WYETH AND NOTICE OF INTENT TO |
| **Filed** | : 01/07/2005 | : 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.