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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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JUN 0 1 2005

OFFICE OF PETITIONS

In re Application of
Mullen, Bernard, Nilsen, and Scott
Application No.: 11/037,550
Filed: January 18, 2005
Attorney Docket No: 1571.1144-014
For: DURABLE, OPEN-FACED RETROREFLECTIVE PRISMATIC CONSTRUCTION

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed April 18, 2005 (certificate of mailing dated April 15, 2005.)

The petition is **GRANTED**.

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

The above-cited application was filed on January 18, 2005, without a properly executed declaration. On February 28, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, and the payment of the filing and claim fees. On August 18, 2004, the instant petition was filed with evidentiary documents and statements.

Petitioner has shown that inventor Bernard has refused to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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RANDY J. PRITZKER
WOLF, GREENFIELD & SACKS, PC
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

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NOV 0 6 2006
OFFICE OF PETITIONS

In re Application of :
Tomohito Tsushima et al :
Application No. 11/037,554 : DECISION GRANTING PETITION
Filed: January 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. S1459.70124US00 :

This is a decision on the petition, filed November 1, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 29, 2006 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2827 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\NOV10\037554.wpd

---

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

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JAN 22 2007

OFFICE OF PETITIONS

Ansel M. Schwartz
Suite 304
201 N. Craig Street
Pittsburgh PA 15213

In re Application of :
Sage : DECISION ON PETITION
Application No. 11/037,571 :
Filed: January 15, 2005 :
Docket No.: SAGE-8 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed October 10, 2006

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice of Allowance (Notice) mailed June 20, 2006. This decision precedes Notice of Abandonment.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply 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 37 C.F.R. § 1.137(b) was unintentional; and (4)any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Patent Publication for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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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	: Steven W. Rogers	: DECISION ON REQUEST FOR
Patent Number	: 7593944	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,575	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **704** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 09/01/09

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 11037583 Patent No.: 7552715

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome

Certificates of Correction Branch

703-756-1574

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

_____

_____

_____

_____

Cheryl J. Tyler

SPE

3744

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/01/09

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 11037583 Patent No.: 7552715

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580
You can fax the Directors/SPE response to 571-270-9990

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

_____

_____

_____

_____

_____ 3744
SPE **Art Unit**

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FULBRIGHT & JAWORSKI, LLP
1301 McKINNEY
SUITE 5100
HOUSTON, TX 77010-3095

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AUG 12 2005

OFFICE OF PETITIONS

In re Application of :
Dan L. Dietz :
Application No. 11/037,595 :
Filed: January 18, 2005 : ON PETITION
For: OFFSET EYEGLASSES CLASP :

This is a decision on the Petition Regarding Omitted Item in a Nonprovisional Application, filed May 31, 2005, requesting the above-identified application be accorded a filing date of January 18, 2005, including page 3 of the specification.

The application was filed on January 18, 2005. On May 17, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, page 3 of the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that page 3 of the specification was originally filed with the application on January 18, 2005, and was received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 32 pages of application in the above-identified application by this Office on January 18, 2005.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 32 pages of application in the above-identified application by this Office on January 18, 2005. Applicant has also re-filed page 3 of the specification.

"A postcard receipt which itemizes and properly identifies the papers which are being filed serves as prima facie evidence of receipt in the PTO of all items listed thereon by the PTO." MPEP § 503.

Accordingly, the petition is granted.

The copy of page 3 of the specification, filed with the instant petition on May 31, 2005, will be used for examination purposes.

The petition fee has been refunded to deposit account 06-2375 as authorized in the Fee Transmittal filed with the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 18, 2005, and an indication that page 3 of the specification was included among 32 pages of application filed on January 18, 2005, using page 3 of the specification filed with the instant petition on May 31, 2005.

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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Paper No.

Barbara B. Courtney
COURTNEY STANIFORD &
GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

MAILED

MAR 17 2006

Technology Center 2100

In re Application of:
Illah Nourbakhsh, et al.
Application No. 11/037,604
Filed: January 18, 2005
For: METHOD AND APPARATUS FOR MULTI-CONTACT SCHEDULING

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed February 10, 2006.

A grantable request to withdraw as attorney of record should indicate thereon the present mailing addresses of the attorney(s) who is/are withdrawing from the record and of the applicant. The request for withdrawal must be signed by every attorney 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. ə 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ə 402.06. 37 C.F.R. ə 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed February 10, 2006 meets all the requirements. Accordingly the request is **GRANTED**.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant. This correspondence address is provided by the withdrawn attorney(s). Applicant is reminded of the obligation to promptly notify the Patent and Trademark Office (Office) of any change in correspondence address to ensure receipt of all communications from the Office.

James R. Matthews

for Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Mr. Scott Horstemeyer
THOMAS, KAYDEN, HORSTEMEYER &
RISLEY LLP
100 Galleria Parkway, Suite 1750
Atlanta, GA 30339

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STEPHEN B. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2711

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of

EICHENLAUB, Jesse B.
Application No. 11/037,614
Filed: January 18, 2005
Attorney Docket No. 85953.000093

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 16, 2007.

The request is **NOT APPROVED.**

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request "we no longer represent this client" 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 the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: MR. ARNOLD LAGERGREN
DIMENSION TECHNOLOGIES, INC.
315 MT. READ BOULEVARD
ROCHESTER, NY 14611

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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
11/037,621	01/18/2005	3654	500	STR-737	8	20	2

CONFIRMATION NO. 5998

37282
HOWARD J. GREENWALD P.C.
349 W. COMMERCIAL STREET SUITE 2490
EAST ROCHESTER, NY 14445-2408

CORRECTED FILING RECEIPT

OC000000015466967

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)

Stephen T. Ritsema, Bergen, NY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/037,621

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

**** SMALL ENTITY ****

Title

Cutter assembly for a grinder pump

Preliminary Class

241

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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MALLOY & MALLOY, P.A.
HISTORIC CORAL WAY
2800 S.W. THIRD AVENUE
MIAMI, FL 33129

MAILED
FROM DIRECTORS OFFICE
MAR 16 2005
TECHNOLOGY CENTER 3600

In re application of : **DECISION ON PETITION**
C. Walter Kline : **TO MAKE SPECIAL**
Application No. 11/037,632 : **(APPLICANT'S AGE)**
Filed: January 18, 2005 :
For: ASSEMBLY PROVIDING A WATER RESTRICTIVE BARRIER AND AN UNOBSTRUCTED PASSAGEWAY FOR A DOORWAY

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

The petition is **GRANTED**.

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

The evidence submitted with the petition is a signed declaration indicating Mr. Kline is at least 65 years of age.

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

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

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

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(703) 308-0866

KJD/slb: 03/04/05

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JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN NC 28562

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AUG 2 3 2006

OFFICE OF PETITIONS

In re Application of	:	
Bobed, Ismael Gracia	:	
Application No. 11/037,635	:	DECISION GRANTING PETITION
Filed: January 18, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P01045WOUS	:	

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. § 365(c) for the benefit of a prior-filed international application designating the United States of America (Application No. PCT/EP2003/007437, filed on July 9, 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 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 international 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 international application has been included in an Application Data Sheet, 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. § 365(c) to the above-noted, prior-filed international 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. § 365 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 international application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282. All other inquiries should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3726 for appropriate action, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 365 to the prior-filed international application.

Liana Chase
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: ____

DATE : 11/8/07

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/037636 Patent No: 7251791182

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: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

SPE 2825 **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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JUN 13 2007

OFFICE OF PETITIONS

STEPHEN B. SALAI, ESQ.
HARTER, SECREST & EMERY LLP
1600 BAUSCH & LOMB PLACE
ROCHESTER NY 14604-2711

In re Application of

EICHENLAUB, Jesse B.
Application No. 11/037,638
Filed: January 18, 2005
Attorney Docket No. **85953.000094**

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 16, 2007.

The request is **NOT APPROVED**.

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

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

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **MR. ARNOLD LAGERGREN**
DIMENSION TECHNOLOGIES, INC.
315 MT. READ BLVD.
ROCHESTER, NY 14611

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Paper No.

PEHR JANSSON, ATTORNEY AT LAW
7628 PARKVIEW CIRCLE
AUSTIN, TX 78731

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JUN 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Arango et al.	:	DECISION ON PETITION
Application No. 11/037,648	:	
Filed: January 18, 2005	:	
Atty Docket No. 102.001	:	
	:	

This is a decision on the "PETITION REQUESTING GRANT OF FILING DATE UNDER 37 CFR 1.53(e)," filed May 27, 2005. Applicants request that the above-identified nonprovisional application be accorded a filing date of January 18, 2005, with no drawings present in the application.

The petition is **GRANTED**.

Application papers in the above-identified nonprovisional application were deposited on January 18, 2005. However, on February 28, 2005, the Initial Patent Examination Division mailed applicants a "Notice of Incomplete Nonprovisional Application," stating that the application papers deposited January 18, 2005 had not been accorded a filing date because the application was deposited without drawings.

In response, applicants filed the instant petition along with a petition for extension of time for response within the first month. Requests for extensions of time pursuant to § 1.136(a) are not applicable to the response period set in the Notice. Rather, any petition under 37 CFR 1.53(e) or 37 CFR 1.182 not filed within the 2-month period set in the Notice may be dismissed as untimely. 37 CFR 1.181(f). As such, the petition

fee ($60) will be refunded by the Office of Finance. Moreover, the petition will not be dismissed as untimely. See MPEP 601.01(d).

Applicants submit that the application as filed did not require a drawing to provide an understanding of the subject matter sought to be patented, and thus, request the grant of January 18, 2005 as the filing date of the application.

RELEVANT STATUTES AND REGULATIONS

35 U.S.C. 111(a)(4) provides that:

> The filing date of an application shall be the date on which the specification and any required drawing are received in the Patent and Trademark Office.

However, as stated in MPEP 601.01(f)

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

In regards to withdrawing the Notice, MPEP § 601.01(f) also states that:

> a nonprovisional application having at least one claim ..., directed to subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figure(s) in the specification, but filed without drawings will be treated as an application without all of the drawing figures referred to in the specification as discussed in MPEP § 601.01(g), so long as the application contains something that can be construed as a written description.

And, MPEP § 601.01(g) further provides that:

> If the application is filed without all of the drawing figure(s) referred to in the specification, ..., OIPE will mail a "Notice of Omitted Item(s)" indicating that the application papers so deposited have been accorded a filing date, but are lacking some of the figures of the drawings described in the specification.

DISCUSSION

A review of the application confirms that as filed it contained at least one method claim. Pursuant to § 601.01(f), a drawing is not considered essential for a filing date. Thus, the application is entitled to a filing date without drawings present in the application.

However, as the specification in the instant nonprovisional application contained reference to drawing figures 1 through 12 (Brief Description of Drawings, p. 7-8 of Specification), mailing of a Notice requiring submission of those drawings was appropriate. The Office should have mailed a "Notice of Omitted Items" rather than a "Notice of Incomplete Nonprovisional Application." The "Notice of Incomplete Nonprovisional Application" mailed February 28, 2005, was mailed in error and is hereby **withdrawn**.

In view thereof, the application as originally deposited without drawings is entitled to a filing date of January 18, 2005.

Given the basis for granting the petition, the petition fee is being refunded.

CONCLUSION

The Office of Initial Patent Examination (OIPE) has been advised of this decision. Pursuant to this decision, the application has been referred to OIPE for **correction of the filing date to January 18, 2005** and for **indication in Office records, as appropriate, that "0" sheets of drawings were present on filing**.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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100 BOSCH BOULEVARD
NEW BERN, NC 28562

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MAY 10 2007

OFFICE OF PETITIONS

In re Application of :
Wolfgang Kentner et al :
Application No. 11/037,650 : DECISION ON PETITION
Filed: January 18, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00781WOUS :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed October 18, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP2003/007832, filed July 18, 2003, as set forth in the accompanying Supplemental Application Data Sheet.

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §§ 120 and 365(c) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

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

This application is being forwarded to the examiner of Technology Center Art Unit 3637 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

/Frances Hicks/

Frances Hicks
Petition Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPL NO.	FILING OR 371(c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	TOT CLMS	IND CLMS
11/037,650	01/18/2005	3637	1000	2002P00781WOUS	20	3

CONFIRMATION NO. 5081

CORRECTED FILING RECEIPT

OC000000023763730

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 05/09/2007

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

Applicant(s)

Wolfgang Kentner, Rofingen, GERMANY;
Karl-Friedrich Laible, Langenau, 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/EP03/07832 07/18/2003

Foreign Applications

GERMANY 10233217.7 07/22/2002

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 US11/037,650

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Fastening element and arrangement

Preliminary Class

312

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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

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

NOT GRANTED

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

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P.O. BOX 398
AUSTIN TX 78767-0398

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JUL 14 2009

OFFICE OF PETITIONS

In re Application of
Joseph E. PECK et al.
Application No. 11/037,652
Filed: January 18, 2005
Attorney Docket No. **5150-65501**

DECISION DISMISSING PETITION
UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 29, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the Continuation Data is not identified properly. A proper claim for priority to be accepted for the present application should recite:

This application is a continuation of U.S. patent application Serial No. 10/101,507, filed March 19, 2002, which is a continuation-in-part of U.S. patent application Serial No. 10/058,150, filed October 29, 2001, now U.S. Patent No. 7,085,670, which claims benefit of priority of U.S. provisional application Serial No. 60/313,136, filed August 17, 2001, as well as U.S. provisional application Serial No. 60/312,252, filed August 14, 2001.

U.S. patent application Serial No. 10/058,150, filed October 29, 2001, is continuation-in-part of U.S. patent application Serial No. 10/034,565, filed October 19, 2001, now U.S. Patent No. 7,152,027, which is a continuation of U.S. patent application Serial No. 09/229,695, filed January 13, 1999, now U.S. Patent No. 6,311,149, which claims benefit of priority of U.S. provisional application Serial No. 60/074,806, filed February 17, 1998.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

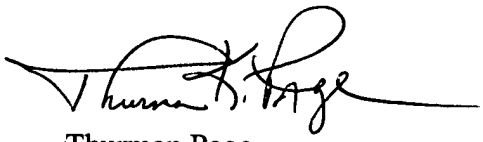
Further correspondence with respect to this matter should be addressed as follows:

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

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

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

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.



Thurman Page
Petitions Examiner
Office of Petitions

[1] The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).

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AUSTIN TX 78767-0398

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Joseph E. PECK et al.	:	
Application No. 11/037,652	:	DECISION DISMISSING PETITION
Filed: January 18, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. **5150-65501**	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed August 24, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled

to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2182 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

Thurman K. Page
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
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/037,652	01/18/2005	2182	6538	5150-65501	26	4

CONFIRMATION NO. 6083

CORRECTED FILING RECEIPT

35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Date Mailed: 09/30/2009

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

Applicant(s)

Joseph E. Peck, Round Rock, TX;
Matthew Novacek, Austin, TX;
Hugo A. Andrade, Austin, TX;
Newton G. Petersen, Austin, TX;
Ganesh Ranganathan, Austin, TX;
Brian Sierer, Austin, TX;
John Pasquarette, Austin, TX;

Assignment For Published Patent Application

National Instruments Corporation

Power of Attorney:

David Rose--26223
Noel Kivlin--33929
Kevin Daffer--34146
Eric Meyertons--34876
Jeffrey Hood--35198

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,507 03/19/2002 PAT 7,016,811
which is a CIP of 10/058,150 10/29/2001 PAT 7,085,670
which is a CIP of 10/034,565 10/19/2001 PAT 7,152,027
which is a CON of 09/229,695 01/13/1999 PAT 6,311,149
which claims benefit of 60/074,806 02/17/1998
and said 10/058,150 10/29/2001
claims benefit of 60/312,252 08/14/2001
and claims benefit of 60/313,136 08/17/2001

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/037,652**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

NETWORK-BASED SYSTEM FOR CONFIGURING A PROGRAMMABLE HARDWARE ELEMENT IN A SYSTEM USING HARDWARE CONFIGURATION PROGRAMS GENERATED BASED ON A USER SPECIFICATION

Preliminary Class

710

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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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/037,652	01/18/2005	2182	6538	5150-65501	26	4

CONFIRMATION NO. 6083

CORRECTED FILING RECEIPT

35690
MEYERTONS, HOOD, KIVLIN, KOWERT & GOETZEL, P.C.
P.O. BOX 398
AUSTIN, TX 78767-0398

Date Mailed: 09/30/2009

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

Applicant(s)

Joseph E. Peck, Round Rock, TX;
Matthew Novacek, Austin, TX;
Hugo A. Andrade, Austin, TX;
Newton G. Petersen, Austin, TX;
Ganesh Ranganathan, Austin, TX;
Brian Sierer, Austin, TX;
John Pasquarette, Austin, TX;

Assignment For Published Patent Application

National Instruments Corporation

Power of Attorney:

David Rose--26223
Noel Kivlin--33929
Kevin Daffer--34146
Eric Meyertons--34876
Jeffrey Hood--35198

Domestic Priority data as claimed by applicant

This application is a CON of 10/101,507 03/19/2002 PAT 7,016,811
which is a CIP of 10/058,150 10/29/2001 PAT 7,085,670
which is a CIP of 10/034,565 10/19/2001 PAT 7,152,027
which is a CON of 09/229,695 01/13/1999 PAT 6,311,149
which claims benefit of 60/074,806 02/17/1998
and said 10/058,150 10/29/2001
claims benefit of 60/312,252 08/14/2001
and claims benefit of 60/313,136 08/17/2001

Foreign Applications

If Required, Foreign Filing License Granted: 10/06/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/037,652**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

NETWORK-BASED SYSTEM FOR CONFIGURING A PROGRAMMABLE HARDWARE ELEMENT IN A SYSTEM USING HARDWARE CONFIGURATION PROGRAMS GENERATED BASED ON A USER SPECIFICATION

Preliminary Class

710

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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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.

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NOT GRANTED

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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	: Joseph E. Peck	: DECISION ON REQUEST FOR
Patent Number	: 7627695	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,652	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: 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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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Lubrecht, Pizzo, Savvides, Baron, and Papaefstathiou :
Application No.: 11/037,658 : DECISION ACCORDING
Filed: January 18, 2005 : RULE 47(a) STATUS
Attorney Docket No: 309783.02 (M1103.70016US0 :
For: **METHODS FOR CAPCITY MANAGEMENT**

This is in response to the petition under 37 CFR 1.47(a), filed October 20, 2005 (certificate of mailing dated October 17, 2 005.)

The petition is **GRANTED**.

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

The above-cited application was filed on January 18, 2005, without an executed oath or declaration. Accordingly, a "Notice to File Missing parts of Nonprovisional Application" (the "Notice") was mailed on March 17, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration, and replacement drawings A petition under 37 CFR 1.47(a) was filed on October 20, 2005, with a request for an extension of time within the fifth month.

Petitioner has shown that inventor Savvides has refused to execute the declaration and join the above-identified application The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be directed to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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NOV 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Lubrecht, Pizzo, Savvides, Baron, and Papaefstathiou :
Application No.: 11/037,659 : DECISION ACCORDING
Filed: January 18, 2005 : RULE 47(a) STATUS
Attorney Docket No: 309783.01 (M1103.70016US0 :
For: **METHODS FOR MANAGING CAPACITY**

This is in response to the petition under 37 CFR 1.47(a), filed October 20, 2005 (certificate of mailing dated October 17, 2 005.)

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.

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Kenya A. McLaughlin

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Petitions Attorney
Office of Petitions

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VALLEY FORGE PA 19482

In re Application of:
WATROUS, RAYMOND L., et al
Serial No. 11/037,665
Filed: Jan. 18, 2005
Docket: ZMC-109US
Title: COMPUTER-ASSISTED DETECTION OF SYSTOLIC MURMURS ASSOCIATED WITH HYPERTROPHIC CARDIOMYOPATHY

1/30/09

DECISION ON PETITION
UNDER 37 CFR § 1.144

This is a decision on the petition filed Nov. 10, 2008 under 37 CFR 1.181 requesting withdrawal of the restriction requirement of February 20, 2008 or modify the restriction requirement by rejoining claims 1-12 and 16-28. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is **granted.**

In the petition, petitioner argues that the examiner failed to show the claimed inventions are distinct in the restriction requirement. The examiner's assertion of distinctness was not supported by any reasons and/or examples to support the conclusions as required by MPEP §803.01. Petitioner also argues in essence that the inventions defined by Groups I, II, V and VI are not distinct. These groups should be joined together. The claims may be restricted to three groups, namely, Group I including claims 1-12 and 16-28; Group II including claim 13 and Group III including claims 14 and 15. Therefore, the examiner should have treated claims 8-12 and 16-28 directed to Groups I, II, IV and V inventions on the merits.

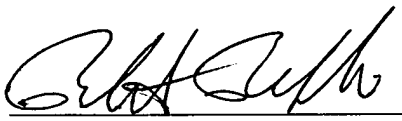
In the restriction requirement of February 20, 2008, the examiner required an election between: Group I, claims 1-7, drawn to a method for assisting in the diagnosis of heart murmur; Group II, claims 8-12 and 25-28, drawn to a method for assisting in the diagnosis of heart murmur/a computer readable medium including computer instructions adapted to instruct a general purpose computer to perform a method for assisting in the diagnosis of heart murmur; Group III, claim 13, drawn to a method for determining an effective dose of a therapeutic agent for treating a heart condition; Group IV, claims 14-15, drawn to a method for adjusting a parameter of a therapeutic device to treat a heart condition; Group V, claims 16-19, drawn to a method for diagnosing cardiac murmurs associated with hypertrophic. However, the examiner provided no

explanation as to why these six Groups of Inventions are independent or distinct. Therefore, the restriction requirement promulgated on February 20, 2008 does not comply with MPEP 802.01[1].

In finding petitioner's points of argument persuasive, the restriction of February 20, 2008 is hereby withdrawn. The examiner is directed to either totally withdraw the restriction or re-mail a complete restriction setting forth reasons and examples of distinctness of each invention in accordance with MPEP 802.01.

The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3766 for the examiner's preparation of an Office action not inconsistent with this decision. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.



Robert Olszewski, Director
Technology Center 3700

[1] 802.01 [R-5] Meaning of "Independent" and "Distinct" 35 U.S.C. 121 quoted in the preceding section states that the Director may require restriction if two or more "independent and distinct" inventions are claimed in one application. In 37 CFR 1.141, the statement is made that two or more "independent and distinct inventions" may not be claimed in one application. This raises the question of the inventions as between which the Director may require restriction. This, in turn, depends on the construction of the expression "independent and distinct" inventions. "Independent", of course, means not dependent>, or unrelated<. If "distinct" means the same thing, then its use in the statute and in the rule is redundant. If "distinct" means something different, then the question arises as to what the difference in meaning between these two words may be. The hearings before the committees of Congress considering the codification of the patent laws indicate that 35 U.S.C. 121: "enacts as law existing practice with respect to division, at the same time introducing a number of changes." The report on the hearings does not mention as a change that is introduced, the inventions between which the Director may properly require division. The term "independent" as already pointed out, means not dependent>, or unrelated<. large number of inventions between which, prior to the 1952 Act, division had been proper, are dependent inventions, such as, for example, combination and a subcombination thereof; as process and apparatus used in the practice of the process; as composition and the process in which the composition is used; as process and the product made by such process, etc. If section 121 of the 1952 Act were intended to direct the Director never to approve division between dependent inventions, the word "independent" would clearly have been used alone. If the Director has authority or discretion to restrict independent inventions only, then restriction would be improper as between dependent inventions, e.g., the examples used for purpose of illustration above. Such was clearly not the intent of Congress. Nothing in the language of the statute and nothing in the hearings of the committees indicate any intent to change the substantive law on this subject. On the contrary, joinder of the term "distinct" with the term "independent", indicates lack of such intent. The law has long been established that dependent inventions (frequently termed related inventions) such as used for illustration above may be properly divided if they are, in fact, "distinct" inventions, even though dependent. I. INDEPENDENT The term "independent" (i.e., **>unrelated<) means that there is no disclosed relationship between the two or more inventions claimed, that is, they are unconnected in design, operation, and effect. For example, a process and an apparatus incapable of being used in practicing the process are independent inventions. See also MPEP § 806.06 and § 808.01. II. > RELATED BUT< DISTINCT Two or more inventions are related (i.e., not independent) if they are disclosed as connected in at least one of design (e.g., structure or method of manufacture), operation (e.g., function or method of use), or effect. Examples of related inventions include combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc. In this definition the term related is used as an alternative for dependent in referring to inventions other than independent inventions. Related inventions are distinct if the inventions as claimed are not connected in at least one of design, operation, or effect (e.g., can be made by, or used in, a materially different process) and wherein at least one invention is PATENTABLE (novel and nonobvious) OVER THE OTHER (though they may each be unpatentable over the prior art). See MPEP § 806.05(c) (combination and subcombination) and § 806.05(j) (related products or related processes) for examples of when a two-way test is required for distinctness. It is further noted that the terms "independent" and "distinct" are used in decisions with varying meanings. All decisions should be read carefully to determine the meaning intended.

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/037,682	01/18/2005	Frank A. Howell	

GAUTHIER & CONNORS, LLP
225 FRANKLIN STREET
BOSTON MA 02110

DATE MAILED: September 12, 2006

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on September 1, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

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

- ☑ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION 7124388 B2

DATE : 12/5/06

Paper No.: ——

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/037701 Patent No.: 7124388 B2

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

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

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

Virginia Tolbert

Certificates of Correction Branch

703-308-9390 ext. 113

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

JACK CHIANG
SUPERVISORY PATENT EXAMINER

_____ SPE

2825 Art Unit

PATENT

APR 2 1 2005

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s):	Venkat Selvamanickam		
Title:	METHOD OF PRODUCING BIAXIALLY TEXTURED BUFFER LAYERS AND RELATED ARTICLES, DEVICES AND SYSTEMS		
App. No.:	11/037,705	Filed:	January 18, 2005
Examiner:	UNASSIGNED	Group Art Unit:	1754
Atty. Dkt. No.	1014-SP212-CIP		

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL UNDER 37 C.F.R. 1.102

Sir:

In accordance with Rule 1.102 and MP,P § 708.02 IX entitled "Special Status for Patent Applications Relating to Superconductivity," applicants respectfully request that the above-identified application be accorded special status. The above-identified application contains inventions involving superconductive materials. Accordingly, advancement of the above-identified application is respectfully requested.

No PTO fees are required for consideration and granting of this petition, in accordance with MPEP § 708.02 IX.

Respectfully submitted,

4/20/05
Date

Jeffrey S. Abel, Reg. No. 36,079
Attorney for Applicant(s)
Toler, Larson & Abel, L.L.P.
5000 Plaza on the Lake, Suite 265
Austin, Texas 78746
(512) 327-5515(phone)
(512) 327-5452 (fax)

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

APR 27 2005

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COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

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JAN 13 2006

OFFICE OF PETITIONS

In re Application of	:
Matsui, et al.	: DECISION REFUSING STATUS
Application No. 11/037,718	: UNDER 37 CFR 1.47(a)
Filed: January 18, 2005	:
Dkt. No.: TAYE-26	:
For: CHIRP MANAGED DIRECTLY	:
MODULATED LASER WITH BANDWIDTH	:
LIMITING OPTICAL SPECTRUM	:
RESHAPER	:

The above-identified application has been referred to the Office of Petitions in response to the submission received September 21, 2005. This matter is being treated under the provisions of 37 CFR 1.47(a). The required petition fee of $200.00 has been charged to petitioners' deposit account.

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 January 18, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 17, 2005 requiring an executed oath or declaration and a surcharge.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C.

§§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The instant petition fails to satisfy requirement (1) set forth above. Petitioners allege that it is believed inventor Duncan Walker has "moved out of the country" and that a search to locate him is ongoing.

Petitioners have failed to establish that the non-signing inventor cannot be reached or located. Petitioners are advised that where inability to reach or locate a non-signing inventor is alleged, petitioners are required to establish that diligent effort was made to locate the non-signing inventor and provide the non-signing inventor with a complete copy of the patent application (specification, including claims, drawings, and oath or declaration).

Any renewed petition must be supported by evidence that sufficiently establishes that despite diligent effort, the non-signing inventor cannot be located. A statement of facts should be submitted that fully describes the exact facts that are relied on to establish that a *diligent effort* was made to locate the non-signing inventor. The statement of facts must be signed, where at all possible, by a person having *firsthand knowledge* of the facts recited therein. Statements based on hearsay, will not normally be accepted. At the very least, a search of the internet, telephone directories, and international registries should be undertaken in regions where it is suspected the non-signing inventor may reside. Petitioner should reference and supply evidence of any such searches in a renewed petition. *See*, MPEP 409.03(d).

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 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

Mark J. Pandiscio
Pandiscio & Pandiscio, P.C.
470 Totten Pond Road
Waltham, MA 02451-1914

COPY MAILED
JUN 22 2006
OFFICE OF PETITIONS

In re Application of	
Matsui, et al.	DECISION NOTING JOINDER
Application No. 11/037,718	OF INVENTOR AND PETITION
Filed: January 18, 2005	UNDER 37 CFR 1.47(a) MOOT
Dkt. No.: TAYE-26	
For: CHIRP MANAGED DIRECTLY MODULATED LASER WITH BANDWIDTH LIMITING OPTICAL SPECTRUM RESHAPER	

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed March 16, 2006.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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

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

Mail Date: 04/20/2010

Applicant	: Joseph M. Pastore	: DECISION ON REQUEST FOR
Patent Number	: 7580745	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **736** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Walter T. Kim
Suite 1300
2030 Main Street
Irvine, CA 92614

COPY MAILED

JUN 0 9 2008

In re Application of :
Mike Insang Kim :
Application No. 11/037,729 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. MK.P002 : FROM RECORD
:

This is a decision on the request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 28, 2008.

The request is **APPROVED**.

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

The request was signed by Walter T. Kim on behalf of all attorneys/agents of record. All attorneys/agents of record have been withdrawn.

The correspondence address has been changed and is copied below.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Mike I. Kim
84 Tierra Plano
Rancho Santa Margarita, CA 92688

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
11/037,729	01/18/2005	Mike Insang Kim	MK.P002

CONFIRMATION NO. 7144

POWER OF ATTORNEY NOTICE

Walter T. Kim
Suite 1300
2030 Main Street
Irvine, CA 92614

OC00000030365349

Date Mailed: 06/09/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/28/2008.

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

/kainabinet/

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

Pascal, Bob

From: Newsome, Lamonte
Sent: Tuesday, June 02, 2009 4:38 PM
To: Choe, Henry
Cc: Pascal, Bob
Subject: 11037733

Paper No.: _____

DATE : 6/02/09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 11037733 Patent No.: 7518447 B1

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.

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

Comments: _____

SPE 2817

6/3/2009

PAGE 1/1 * RCVD AT 6/5/2009 9:05:24 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/34 * DNIS:2709990 * CSID:703 3087722 * DURATION (mm-ss):01-12

Pascal, Bob

From: Newsome, Lamonte
Sent: Tuesday, June 02, 2009 4:38 PM
To: Choe, Henry
Cc: Pascal, Bob
Subject: 11037733

Paper No.: _____

DATE : 6/02/09

TO SPE OF : ART UNIT 2817

SUBJECT : Request for Certificate of Correction for Appl. No.: 11037733 Patent No.: 7518447 B1

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.

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

Comments: _____

SPE 2817

6/3/2009

001

06/05/09 FRI 09:11 FAX 703 3087722

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

Date Mailed: October 22, 2007

PATREA L. PABST
PABST PATENT GROUP LLP
400 COLONY SQUARE, SUITE 1200
1201 PEACHTREE STREET
ATLANTA GA 30361

Applicant: Steiner et al.
Appl. No.: 11/037,737
Filing Date: January 18, 2005
Title: SUBLINGUAL DRUG DELIVERY DEVICE
Attorney Docket No.: SOLO 102
Pub. No.: US 2005/0155601 A1
Pub. Date: July 21, 2005

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 9, 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 "Document for an existing application", which is 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.

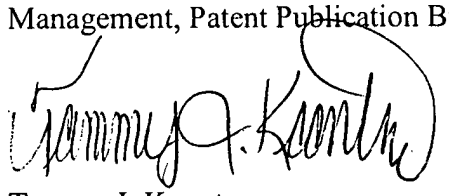
Any questions or requests for reconsideration of the decision, should be addressed as follows:

Adjustment date: 10/23/2007 RCLEMONS
02/12/2007 INTEFSW 00000091 503129 11037737
01 FC:1504 300.00 CR

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, Patent Publication Branch at 571-272-4200.



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

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

Pabst Patent Group LLP
1545 PEACHTREE STREET NE
SUITE 320
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Solomon S. Steiner	: DECISION ON REQUEST FOR
Patent Number	: 7658721	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,737	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **859** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

COPY MAILED

DEC 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Reitz, et al. :
Application No.: 11/037,758 :
Filed: January 18, 2005 :
Attorney Docket No.: RD29186-10 :

ON PETITION

This is a decision on the petition filed June 15, 2005, which will be treated as a petition under 37 CFR 1.182.

The petition is **dismissed.**

The application was deposited on January 18, 2005. On, May 17, 2005, the Initial Patent Examination Division mailed a "Notice of Omitted Items in a Nonprovisional Application" stating that the application had been accorded a filing date, but that Figures 1 and 2 as described in the specification appeared to have been omitted.

In response, the present petition was filed. Petitioner therein argues Figures 1 and 2 were included in the original disclosure.

The argument has been considered, but is not persuasive. The Patent and Trademark Office (the "Office") file is the official record of the papers originally filed in this application. A review of the application file did not reveal Figures 1 and 2. Petitioner must provide *prima facie* evidence that these items were received on January 18, 2005. Such evidence would include a copy of the itemized Office date-stamped postcard receipt whereby the Office acknowledges receiving the figures. See MPEP § 503. No such postcard was found with the petition papers, therefore; petitioner has not overcome the presumption that the application file, as maintained by the Office, is accurate. The petition is dismissed, accordingly. If petitioner files a petition for reconsideration of this decision, petitioner must include not only the Office date-stamped postcard, but also a copy of Figures 1 and 2 as they were not found with the instant petition.

The fee for the instant petition is $400.00. Although the petition fee was paid and refunded on October 17, 2005, the fee will again be charged to deposit account 07-0862 because a showing was not made that the "Notice of Omitted Items in a Nonprovisional Application" was mailed in error.

The application file is being directed to the Office of Initial Patent Examination for further processing. Prior to the first action on the merits, petitioner should either file a preliminary amendment requesting entry of Figures 1 and 2 or file an amendment to canceling all references in the specification to Figures 1 and 2.

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

Kenya A. McLaughlin
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
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COPY MAILED

MAR 0 9 2006

OFFICE OF PETITIONS

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD, CT 06002

In re Application of :
Reitz, et al. :
Application No. 11/037,758 : DECISION GRANTING PETITION
Filed: January 18, 2005 :
Attorney Docket No. RD29186-10 :

This is a decision on the petition filed December 22, 2005, to vacate the "Notice of Omitted Items in Non-provisional Application" (the "Notice") mailed May 17, 2005.

The petition is **granted**.

On January 18, 2005, the above-identified application was filed. However, on May 17, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of January 18, 2005, and advising applicant that Figures 1 and 2 as described in the specification appeared to have been omitted. The notice set a non-extendable period for reply two-month period for reply.

In response, on June 15, 2005, applicant filed a petition under 37 CFR 1.182, but the petition was dismissed by decision mailed December 1, 2005. The present petition was filed on December 22, 2005, accompanied by a copy of Figures 1 and 2 as described in the specification, and an Office date-stamped postcard receipt acknowledging receipt of 3 sheets of the drawings, among other items.

Upon review of the record, Figures 1 and 2 were not located among the application papers. However, the evidence is convincing that the application papers deposited January 18, 2005, included Figures 1 and 2, which was subsequently misplaced by the Office. Therefore, the application, including Figures 1 and 2, was complete on filing and entitled to the presently accorded filing date of January 18, 2005, with Figures 1 and 2 as part of the original disclosure.

Accordingly, the petition is granted; the language of the Notice relative to the omitted items is vacated, accordingly. The petition fee of $400.00 will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with the presently accorded filing date of January 18, 2005, with Figures 1 and 2 included as part of the original disclosure.

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

Kenya A. McLaughlin
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

THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS MO 63101

COPY MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of :
Eugene M. Johnson et al. :
Application No. 11/037,782 : DECISION DISMISSING PETITION
Filed: January 18, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 56029-52710 :

This is a decision on the Request to Authorize Correction of Priority Claim, filed September 23, 2008, which is being treated as a petition requesting that the requirements of 37 CFR 1.78(a) be waived or suspended pursuant to 37 CFR 1.183. In the alternative this is also a petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 08/931,858, filed September 16, 1997.

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

The petition under 37 CFR 1.78(a)(3) is **DISMISSED**.

As to the petition under 37 CFR 1.183:

37 CFR 1.183 provides that in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended or waived by the Commissioner. Petitioner argues that the instant application's publication date is not affected by failure to timely claim priority to Application No. 08/931,858 since it is an intervening reference in the claimed chain of priority involving four nonprovisional and one PCT application. However, publication date of the instant application is not the only issue as petitioner is trying to perfect the chain of copendency and a proper claim under 35 USC § 120 for Application No. 08/931,858 is required. There was no reference to Application No. 08/931,858 in any papers filed in the instant application prior to this petition and therefore any late claim to priority of Application No. 08/931,858 is specifically requested by way of a petition under 37 CFR 1.78(a)(3). The facts do not support an extraordinary situation where justice requires suspension of the rules.

For this reason, the petition under 37 CFR 1.183 is **dismissed**. The $400 fee for a petition under 37 CFR 1.183 has been charged to petitioner's deposit account.

As to the petition under 37 CFR 1.78(a)(3):

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

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

The petition is lacking item (1). The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).[1]

This petition is for delayed claim for priority to nonprovisional application No. 08/931,858. The instant application is a continuation of nonprovisional Application No. 09/474,980 which is a divisional of Application No. 08/931,858.

A proper chain of copendency must exist from the instant nonprovisional application to the nonprovisional Application No. 08/931,858. However, the intervening Application No. 09/474,980 does not have a proper claim of priority to Application No. 08/931,858. Specifically, the specification in Application No. 09/474,980 makes no reference to Application No. 08/931,858. 37 CFR 1.78(a)(2)(i) requires that the application "must contain or be amended to contain a reference to each such prior filed application." Without reference to application No.

[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).

08/931,858, Application No. 09/474,980 does not have benefit of 08/931,858 and thus does not have benefit of Application No. 08/881,172 or 08/615,944 or PCT/US97/03461.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, petitioner must file a petition under 37 CFR 1.78(a)(3) in Application No. 09/474,980 for delayed claim for priority of Application No. 08/931,858.

For the above reasons, the petition under 37 CFR 1.78(a)(3) is **dismissed**. The $1,410 fee for a petition under 37 CFR 1.78(a)(3) has been charged to petitioner's deposit account.

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

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

By hand: Customer 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 Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS MO 63101

COPY MAILED

MAY 21 2009

OFFICE OF PETITIONS

In re Application of	:	
Eugene M. Johnson et al.	:	
Application No. 11/037,782	:	DECISION ON PETITION
Filed: January 18, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 56029-52710	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed April 14, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

The petition filed September 23, 2008 was dismissed in a decision mailed March 16, 2009 for failing to provide a proper amendment to the specification and for failing to provide a proper priority claim in a copending application. The renewed petition includes a proper amendment to the specification and indicates where the copending application was properly amended in a preliminary amendment. However, the petition also includes an improper Application Data Sheet (ADS).

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

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

The petition fails to satisfy item (1) above. Although the amendment to the specification is proper, the petition also includes an ADS which gives erroneous information under the Domestic Benefit/National Stage Information heading. Application No. 08/931,858 is erroneously listed as a Division of Application No. 09/474,980 rather than as a CIP of Application No. 08/881,172. Also, Application No. 08/615,944 is erroneously listed as a CIP of PCT/US 97/03461 instead of 08/881,172 being the CIP of PCT/US97/03461.

Accordingly, a proper Application Data Sheet must be submitted, along with a renewed petition under 37 CFR 1.78(a)(3).

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

By mail: Mail Stop PETITIONS
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 inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS MO 63101

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AUG 0 6 2009

OFFICE OF PETITIONS

In re Application of :
Eugene M. Johnson et al. :
Application No. 11/037,782 : DECISION ON PETITION
Filed: January 18, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 56029-52710 :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 16, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **GRANTED**.

The renewed petition filed April 14, 2009 was dismissed because the Application Data Sheet submitted with the petition was improper. The instant petition includes a proper Application Data Sheet.

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

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

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

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

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

This petition included a petition fee of $1,410, however this fee is unnecessary as this fee had been previously paid with the first petition on September 23, 2008. The overpayment will be refunded to petitioner's deposit account.

Any inquiries concerning this decision may be directed to Carl Friedman at (571) 272-6842. 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 1649 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.

David Buccì
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
11/037,782	01/18/2005	1649	1750	56029-52710	4	2

CONFIRMATION NO. 1201

CORRECTED FILING RECEIPT

70119
THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS, MO 63101

Date Mailed: 08/05/2009

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

Applicant(s)

Eugene M. Johnson, St. Louis, MO;
Jeffrey D. Milbrandt, St. Louis, MO;
Paul T. Kotzbauer, Aston, PA;
Patricia A. Lampe, St. Louis, MO;
Robert Klein, Palo Alto, CA;
Fred DeSauvage, Foster City, CA;

Power of Attorney: The patent practitioners associated with Customer Number 21888

Domestic Priority data as claimed by applicant

This application is a CON of 09/474,980 12/29/1999 ABN
which is a CIP of 08/881,172 06/23/1997 ABN
and is a DIV of 08/931,858 09/16/1997 PAT 6,222,022
which is a CIP of 08/881,172 06/23/1997 ABN
which is a CIP of 08/615,944 03/14/1996 ABN
and is a CIP of PCT/US97/03461 03/14/1997

Foreign Applications

If Required, Foreign Filing License Granted: 05/04/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/037,782**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Persephin Specific Antibodies

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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THOMPSON COBURN LLP
ATTN: RICHARD E. HAFERKAMP
ONE U.S. BANK PLAZA
SAINT LOUIS, MO 63101

Mail Date: 05/12/2010

Applicant	: Eugene M. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7649082	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/037,782	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: 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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BAKER BOTTS L.L.P.
2001 ROSS AVENUE
SUITE 600
DALLAS, TX 75201-2980

Mail Date: 04/20/2010

Applicant	: Brett B. Stewart	: DECISION ON REQUEST FOR
Patent Number	: 7613196	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,784	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1234** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

Mail Date: 04/21/2010

Applicant	: John P. Muter	: DECISION ON REQUEST FOR
Patent Number	: 7655194	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/037,811	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEARETE LLC
CLARENCE T. TEGREENE
1756 - 114TH AVE., S.E.
SUITE 110
BELLEVUE, WA 98004

Mail Date: 05/17/2010

Applicant	: Edward K.Y. Jung	: DECISION ON REQUEST FOR
Patent Number	: 7664736	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/037,825	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **815** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LOREN BRIAN NELSON
1505 STATE HIGHWAY 207
RALLS, TX 79357

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JAN 2 1 2009

In re Application of	:	
Loren Brian Nelson	:	
Application No. 11/037,849	:	ON PETITION
Filed: January 18, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under 37 CFR 1.137(b), filed December 5, 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 28, 2007, which set a shortened statutory period for reply of three (3) months.

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

This matter is being referred to Technology Center AU 3632 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MICHAEL G. JOHNSTON
MOORE & VAN ALLEN PLLC
430 DAVIS DRIVE, SUITE 500
MORRISVILLE NC 28560-6832

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DEC 12 2006
OFFICE OF PETITIONS

In re Application of	:	
Erich Reitinger	:	
Application No. 11/037,870	:	DECISION ON PETITION
Filed: 18 January, 2005	:	UNDER 37 CFR 1.55(c)
Attorney Docket No. 014442-000026	:	

This is a decision on the petition under 37 CFR 1.55(c), filed on 13 September, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign German Application No. 10 2005 001 163.2, filed on 10 January, 2005.

The petition is **GRANTED**.

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

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

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

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

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

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

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

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

This application was filed on 18 January, 2005, which is after November 29, 2000 and within 12 months of 10 January, 2005 (the filing date of the foreign application to which benefit is now being claimed). On 13 September, 2006, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,370.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

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

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

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

This application is being referred to Technology Center AU 2829 for examination in due course and for consideration by the examiner of record of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Christina Tartera Donnell

Senior Petitions Attorney
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
11/037,870	01/18/2005	2829	1445	014442-000026	2	16	2

CONFIRMATION NO. 9439

MICHAEL G. JOHNSTON
Moore & Van Allen PLLC
430 Davis Drive, Suite 500
Morrisville, NC 28560-6832

CORRECTED FILING RECEIPT

OC000000021263734

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)

Erich Reitinger, Munchen, GERMANY;

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

GERMANY 10 2005 001 163.2 01/10/2005

If Required, Foreign Filing License Granted: 06/14/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/037,870

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

METHOD AND APPARATUS FOR TESTING SEMICONDUCTOR WAFERS BY MEANS OF A TEMPERATURE-REGULATED CHUCK DEVICE

Preliminary Class

324

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

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

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

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

NOT GRANTED

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

15 MAR 2005

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

Angenehm Law Firm, Ltd.
P.O. Box 48755
Coon Rapids, MN 55448-0755

In re Application of
MAMAN et al.
Serial No.: 11/037,873
Filing Date: 18 January 2005
Attorney Docket No.: M312-001-USA
For: INDOOR MODULAR PANORAMIC SIGNS

DECISION ON

PETITION UNDER

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) international application no. PCT/IL02/01033 filed on 18 January 2005.

On 24 December 2002, applicant filed international application PCT/IL02/01033, which claimed priority of an earlier Israeli application filed 14 February 2002. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 14 August 2004. Thereafter, the application was abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 18 January 2005, applicant filed a petition to revive under 37 CFR 1.137(b) which was accompanied by a Utility Patent Application Transmittal requesting filing the application under Rule 1.53(b). The application was assigned serial no. 11/037,873 and treated as a filing under 35 U.S.C. 111(a).

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "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".

The petition fee of $750 is required; $685 was paid, and the $65 shortage will be charged to applicant's deposit account per his authorization, satisfying item (2).

With regard to Item (3), applicant "requests revival of the application as having been unintentionally abandoned. Applicant did not intend to abandon the application and has actively pursued revival of the application". Applicant's statement is construed as meaning that "entire delay in filing the required reply from the due date for the reply until the filing of this petition under 37 CFR 1.137(b) was unintentional" as required by 37 CFR 1.137(b)(3) at the time of filing this petition. If this is an incorrect interpretation in view of the rules, petitioner is required to promptly notify this office.

With regard to Item (1), in the instant application, the proper reply has not been provided. The proper reply to a petition under 37 CFR 1.137(b) to revive an international application that became abandoned under 37 CFR 1.495 for failure to timely pay the basic national fee is either:

the payment of the basic national fee; or the filing of a continuing application. Applicant has not provided either reply and thus, the petition under 37 CFR 1.137(b) cannot be granted at this time.

Applicant requests revival of international application PCT/IL02/01033, as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present utility application under 35 U.S.C. 111(a) is not the appropriate reply under 37 CFR 1.137(b) as the instant application does not claim benefit to the international application in accordance with 37 CFR 1.78 and accordingly, is not a continuing application. See 37 CFR 1.78(a)(3) for procedures to add an unintentionally delayed benefit claim.

CONCLUSION

Applicant's petition to revive international application no. PCT/IL02/01033 under 37 CFR 1.137(b) is **DISMISSED WITHOUT PREJUDICE.**

Applicant has TWO (2) MONTHS from the mail date of this decision in which to furnish the proper reply as indicated above. Extensions of time are available.

Any further correspondence with respect to this matter should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

09 JUN 2005

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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Angenehm Law Firm, Ltd.
P.O. Box 48755
Coon Rapids, MN 55448-0755

In re Application of MAMAN et al. Serial No.: 11/037,873 Filing Date: 18 January 2005 Attorney Docket No.: M312-001-USA For: INDOOR MODULAR PANORAMIC SIGNS	DECISION ON RENEWED PETITION UNDER 37 CFR 1.137(b)

This application is before the PCT Legal Office for consideration of applicant's response to 15 March 2005 Decision on Petition requesting revival of the international application no. PCT/IL02/01033 under 37 CFR 1.137(b) filed on 16 May 2005.

On 24 December 2002, applicant filed international application PCT/IL02/01033, which claimed priority of an earlier Israeli application filed 14 February 2002. The deadline for entry into national stage expired thirty months after the priority date or by midnight on 14 August 2004. Thereafter, the application was abandoned for failure to enter national stage in the U.S. before the expiration of the thirty month period.

On 18 January 2005, applicant filed a petition to revive under 37 CFR 1.137(b) which was accompanied by a Utility Patent Application Transmittal requesting filing the application under Rule 1.53(b). The application was assigned serial no. 11/037,873 and treated as a filing under 35 U.S.C. 111(a).

On 15 March 2005, a decision dismissing the petition was mailed to applicant indicating that the proper reply, that is the payment of the basic national fee or the filing of a continuing application, had not been submitted.

On 16 May 2005, applicant submitted a preliminary amendment.

DISCUSSION

A petition under 37 CFR 1.137(b) must be accompanied by (1) a proper response unless it has been previously submitted, (2) the fee required by law for revival of an unintentionally abandoned application (1.17(m)), and (3) a statement that the "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".

Applicant has previously satisfied Items (2) and (3)

With regard to Item (1), the proper reply to a petition under 37 CFR 1.137(b) to revive an international application that became abandoned under 37 CFR 1.495 for failure to timely pay the basic national fee is either: the payment of the basic national fee; or the filing of a continuing application. Applicant has now provided an amendment to the specification inserting the language "This application is a continuation of international application PCT/IL02/01033 filed on December 24, 2002, which is a continuation of Israeli application number 148,158 filed

February 2002."

Applicant requests revival of international application PCT/IL02/01033, as to the United States abandoned under 35 U.S.C. 371(d). The filing of the present utility application under 35 U.S.C. 111(a) is an appropriate reply under 37 CFR 1.137(b) as the instant application claims benefit to the international application and is in accordance with 37 CFR 1.78. Thus, the petition under 37 CFR 1.137(b) is hereby granted.

CONCLUSION

Applicant's petition to revive international application no. PCT/IL02/01033 under 37 CFR 1.137(b) is **GRANTED.**

The application is being forwarded to the Office of Initial Examination Processing (OIPE) for further processing.

Cynthia M. Kratz
Attorney Advisor
Office of PCT Legal Administration

Telephone: 571-272-3286
Facsimile: 571-273-0459

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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POTOMAC PATENT GROUP PLLC
P. O. BOX 270
FREDERICKSBURG, VA 22404

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FEB 19 2010

In re Patent No. 7,493,341	:	
Issued: February 17, 2009	:	
Application No. 11/037,897	:	NOTICE
Filed: January 18, 2005	:	
Attorney Docket No. 0320-005	:	

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.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BROSEMER, KOLEFAS & ASSOCIATES, LLC (NECL)
ONE BETHANY ROAD BUILDING 4 - SUITE #58
HAZLET NJ 07730

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
Malay K. GANAI et al :
Application No. 11/037,920 : DECISION ON PETITION
Filed: 1/18/2005 :
Attorney Docket No. 03038 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 2/15/2008, 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 1/22/2008, as required by the Notice of Allowance and Fee(s) Due, mailed 10/19/2007. Accordingly, the date of abandonment of this application is 1/20/2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

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

David A. Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/037,934	01/18/2005	Michael R. Leadbetter	P-088-US4	6205

27038 7590 07/31/2007

THERAVANCE, INC.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

EXAMINER	
RUSSEL, JEFFREY E	

ART UNIT	PAPER NUMBER
1654	

MAIL DATE	DELIVERY MODE
07/31/2007	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.

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

In re Patent No. 7,008,923 (LEADBETTER)
Issue Date: March 7, 2006
Appl No.: 11/037,934
Filed: January 18, 2005
For: Glycopeptide Phosphonate Derivatives

DECISION GRANTING PETITION
37 CFR 1.324

This is a decision on the petition filed August 11, 2006 to correct inventorship under 37 CFR 1.324.

The petition is granted.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Cecilia Tsang
Supervisory Patent Examiner
Art Unit 1654
Technology Center 1600

THERAVANCE, INC.
Attn: Legal Dept.
901 GATEWAY BOULEVARD
SOUTH SAN FRANCISCO, CA 94080

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-16-09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11037934 Patent No.: 7008923

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: _____

_____

_____

_____

_____

Clark Tang 1654
SPE **Art Unit**

PAGE 2/3 * RCVD AT 4/16/2009 10:09:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-5/10 * DNIS:2730969 * CSID:703 308 9759 * DURATION (mm-ss):00-42

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Alexandria, VA 22313-1450
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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P. O. BOX 7021
TROY, MI 48007-7021

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Albert Yugang Long :
Application No. 11/037,958 : DECISION ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. :
DAS-10602/50

This is a decision on the petition under 37 CFR 1.137(b), filed June 25, 2007, to revive the above-identified application.

The petition is **DISMISSED**.

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

This application became abandoned for failure to timely pay the issue and publication fees on or before May 14, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed February 12, 2007. Accordingly, the date of abandonment of this application is May 15, 2007. A Notice of Abandonment was mailed on June 7, 2007.

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

The instant petition lacks item (1). In this regard, while the issue and publication fees required by the Notice of February 12, 2007 have been received, the drawings required by the Notice of Allowability of February 12, 2007 have not been received. Accordingly, corrected drawings (as replacement sheets) are required before this petition can be granted.

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 (and/or the proper power of attorney documents) 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 properly instructed, all future correspondence regarding this application will be mailed solely to the address of record.

A revocation and power of attorney was filed on June 25, 2007. However, the revocation and power of attorney is unacceptable since it was not accompanied by a statement under 37 CFR 3.73(b). A form under 37 CFR 3.73(b) may be found under Forms on the USPTO website. Accordingly, the revocation and power of attorney of June 25, 2007 will not be entered.

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.**

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc:

Dean B. Watson
2791 Research Drive
Rochester Hills, MI 48309

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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DURA AUTOMOTIVE SYSTEMS, INC.
2791 RESEARCH DRIVE
ROCHESTER HILLS, MI 48309

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MAY 29 2008

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Albert Yuguang Long :
Application No. 11/037,958 :
Filed: January 18, 2005 :
Attorney Docket No. DAS-10602/50 :

This is a decision on the Renewed petition under 37 CFR 1.137(b), filed December 12, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees and corrected drawings in a timely manner in reply to the Notice of Allowance and Fee(s) Due and the Notice of Allowability mailed February 12, 2007, which set a statutory period for reply of three (3) months. Accordingly, by operation of law, the above-identified application became abandoned on May 13, 2007.

The petition decision mailed September 12, 2007 dismissed the petition filed June 25, 2007 noting that the requirements of 37 CFR 1.137(b)(1) was lacking in that the required corrected drawings had not been submitted with the petition.

The instant renewed petition includes corrected drawings.

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 corrected drawings ; (2) the petition fee of $1,500; and (3) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment and corrected drawings are accepted as having been unintentionally delayed.

The September 12, 2007 Decision also noted the revocation and power of attorney filed June 25, 2007 was not acceptable since it was not accompanied by a statement under 37 CFR 3.73(b). A new revocation and power of attorney along with a statement under 37 CFR 3.73(b) has been included with the instant renewed petition and has been accepted.

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

The application file is being referred to the Office of Data Management.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAYER, FORTKORT & WILLIAMS, PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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JUN 30 2005

OFFICE OF PETITIONS

In re Application of :
Han :
Application No. 11/038,013 : ON PETITION
Deposited: January 18, 2005 :
Attorney Docket No. 2400/1 :
For: TRANSMISSION HAVING SIMPLE CONSTRUCTION :

This is a decision on the petition under 37 CFR 1.53(e), filed June 3, 2005 (certificate of mailing date May 31, 2005), requesting, in effect, withdrawal of the Notice of Incomplete Nonprovisional Application, mailed March 30, 2005.

The petition under 37 CFR 1.53(e) is **DISMISSED**.

The application was filed on January 18, 2005. On March 30, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on January 28, 2005 because no drawings were present, as is required by 35 U.S.C. 113.

In response to the Notice, petitioner timely filed the present petition. Petitioner requests that the above-identified application be accorded a filing date of January 18, 2005 on the basis that 9 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on January 18, 2005. The petition states that petitioner received an itemized postcard receipt from the PTO showing that 9 sheets of drawings were received in the PTO on January 18, 2005. Unfortunately, a copy of the date stamped postcard receipt was not filed with the petition.

While petitioner requests consideration under 37 CFR 1.57(a) in the alternative, petitioner is informed that a $400.00 petition fee is required to grant a petition under 37 CFR 1.57(a) where material essential for accordation of filing date is added.

Petitioner desires a no fee petition. Therefore, petitioner should submit a copy of applicant's itemized date stamped postcard receipt. Please prominently mark it – Exhibit to reconsideration petition under 37 CFR 1.53(e). If the postcard proves 9 sheets of drawings were filed on January 18, 2005, then the $400.00 petition fee will be refunded and the application will be accorded a January 18, 2005 filing date.

If petitioner is unable to provide a copy of the itemized date stamped postcard receipt, then a petition under 37 CFR 1.57(a) would be in order.

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

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

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

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

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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AUG 1 1 2005

OFFICE OF PETITIONS

In re Application of
Han
Application No. 11/038,013
Deposited: January 18, 2005
Attorney Docket No. 2400/1
For: TRANSMISSION HAVING SIMPLE CONSTRUCTION

ON PETITION

This is a decision on the reconsideration petition under 37 CFR 1.53(e), filed July 29, 2005, requesting that the above-identified application be accorded a filing date of January 18, 2005.

The petition under 37 CFR 1.53(e) is **GRANTED**.

The application was filed on January 18, 2005. On March 30, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioner that no filing date had been accorded to the application papers deposited on January 28, 2005 because no drawings were present, as is required by 35 U.S.C. 113. Applicant's first petition under 37 CFR 1.53(e), filed June 3, 2005 (certificate of mailing date May 31, 2005), was dismissed on June 30, 2005 for failure to provide evidence that drawings were present on January 18, 2005.

Petitioner again requests that the above-identified application be accorded a filing date of January 18, 2005 on the basis that 9 sheets of drawing figures were received in the Patent and Trademark Office (PTO) on January 18, 2005. With the present reconsideration petition, petitioner has provided an itemized postcard receipt from the PTO showing that 9 sheets of drawings were received in the PTO on January 18, 2005. The return postcard constitutes *prima facie* evidence that 9 sheets of drawing figures were filed on January 18, 2005. MPEP 503. Accordingly, the request is granted.

Regarding the petition fee, current Office policy is to retain the petition fee, regardless of the subsequent granting of any reconsideration petition, when the first petition lacked critical evidence due to applicant's petition submission error, and this resulted in the first petition being dismissed.

Petitioner has not established that the postcard receipt evidence was filed with the June 3, 2005 (certificate of mailing date May 31, 2005) petition. Therefore, the petition fee will not be refunded.

The application will be forwarded to the Office of Initial Patent Examination for further processing, with a filing date of **January 18, 2005**, using the copy of the 9 sheets of drawings supplied with the June 3, 2005 (certificate of mailing date May 31, 2005) petition.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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SEP 02 2008

Mayer & Williams PC
251 North Avenue West
2nd Floor
Westfield, NJ 07090

In re Application of	:	
Seung-Woo Han	:	
Application No. 11/038,013	:	DECISION ON PETITION
Filed: January 18, 2005	:	
Attorney Docket No. 2400/1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed October 12, 2006, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on January 13, 2007. A Notice of Abandonment was mailed on May 24, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment after non-final, (2) the petition fee of $770, and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

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

This application is being referred to Technology Center AU 3681 for appropriate action by the Examiner in the normal course of business on the reply received May 27, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

DO NOT SCAN! Please forward case and paper to address shown below.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 4-10-06

TO SPE OF : ART UNIT 2826

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/038043 Patent No.: 6969887 B2

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

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

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

E. James
Certificates of Correction Branch
703-308-9390 ext. _____

Drawings

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 drawing change is approved. JJ

NATHAN J. FLYNN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800

_____ _____
SPE **Art Unit**

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

DICKSTEIN SHAPIRO LLP
1825 EYE STREET NW
Washington DC 20006-5403

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APR 22 2009

OFFICE OF PETITIONS

In re Application of :
Sasaki et al. : DECISION ON
Application No. 11/038,116 : PETITION
Filed: January 21, 2005 :
Atty Docket No.A8319.0064/P064:

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed December 5, 2008.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to file a proper reply to the non-final Office action mailed February 19, 2008. This Office action set a shortened statutory period for reply of three (3) months, with extensions of time obtainable under § 1.136(a). A Notice of Appeal with a three-month extension of time was filed on August 19, 2008. However, the Notice of Appeal was determined not to be acceptable as it was not in compliance with 37 CFR 41.31(a)(1). No further reply timely filed, the application became abandoned effective August 20, 2008. As such, the amendment filed October 17, 2008 was not acceptable. The instant petition precedes the mailing of a courtesy Notice of Abandonment.

The provisions of 37 C.F.R. § 1.137(b) provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent. A petition filed pursuant to 37 C.F.R. §1.137(b) must be accompanied by:

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

(2) The petition fee as set forth in § 1.17(m);

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

(4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

The petition has met the requirements of 37 CFR 1.137(b) for revival of the application. The petition includes the required statement of unintentional delay and payment of the petition fee set forth in 37 CFR § 1.17(m). The required reply in the form of an amendment was previously filed on October 17, 2008. No terminal disclaimer is required.

Technology Center AU 1794 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the amendment filed October 17, 2008.

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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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ROYLANCE, ABRAMS, BERDO & GOODMAN, L.L.P.
1300 19TH STREET, N.W.
SUITE 600
WASHINGTON,, DC 20036

Mail Date: 04/21/2010

Applicant	: Seok-Chan Kim	: DECISION ON REQUEST FOR
Patent Number	: 7584407	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,122	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1127** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 7/1/06

TO SPE OF : ART UNIT 2853

SUBJECT : Request for Certificate of Correction on Patent No.: 11038201

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

Please complete this form and return with file, within **7** days to:
Palm location **7580, Certificates of Correction Branch – South Tower – 9A22**
If response is for an IFW, **return to employee (named below) via PUBSCofC Team in MADRAS.**
With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction (COCIN)? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Valerie Jackson

Thank You For Your Assistance

Certificates of Correction Branch
Tel. No. 703-308-9390 ext. 114

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

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

Comments:

STEPHEN MEIER
SUPERVISORY PATENT EXAMINER

2853

SPE **Art Unit**

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BORDEN LADNER GERVAIS LLP
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA ON K1P 1J9 CA CANADA

MAIL

FEB 0 3 2006

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
DEBOER, EVERT E., et al.
Appl. No.: 11/038,206
Filed: January 21, 2005
For: **APPARATUS AND METHOD FOR OPTICAL COMMUNICATION PROTECTION**

DECISION ON PETITION UNDER 37 CFR 1.59

This is a decision on the petition filed December 22, 2005 to expunge information from the above identified application pursuant to 37 CFR 1.59(b).

The petition is **Granted**.

Petitioner requests that the preliminary amendment filed June 10, 2005, be expunged from the record. Petitioner states 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. It is clear that the claim listing attached to the amendment is not for the instant application in that the original claims do not match the original claims filed with the application.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been closed from the electronic file.

Kenneth A. Wieder
Special Programs Examiner
Technology Center 2600
Communications

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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BORDEN LADNER GERVAIS LLP
Anne Kinsman
WORLD EXCHANGE PLAZA
100 QUEEN STREET SUITE 1100
OTTAWA, ON K1P 1J9
CANADA

Mail Date: 04/20/2010

Applicant	: Evert E. DeBoer	: DECISION ON REQUEST FOR
Patent Number	: 7593322	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,206	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1281** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

DATE 10-31-07

APPLICATION NUMBER 11/038212

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DOC CODE ~~LET~~ PetDec.TC

DOC DATE ~~NOV 01 2007~~

OFFICE OF PETITIONS

DELIVER THE ATTACHED FIFLE/DOCUMENT TO THE TC SCANNING CENTER

CONTRACTOR: THE ATTACHED FILE/DOCUMENT MUST BE INDEXED AND SCANNED INTO IFW WITHIN **8** WORK HOURS; UPLOADING OF THE SCANNED IMAGES SHOULD OCCUR NO LATER THAN **16** WORK HOURS FOLLOWING RECEIPT OF THIS REQUEST

AFTER SCANNING, ORIGINAL DOCUMENTS SHOULD BE BOXED IN ACCORDANCE WITH INSTRUCTIONS

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NIXON PEABODY LLP
401 9TH STREET NW
SUITE 900
WASHINGTON, DC 20004-2128

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OFFICE OF PETITIONS

In re Application of	:	
Shinji Maekawa et al	:	
Application No. 11/038,212	:	DECISION GRANTING PETITION
Filed: January 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2807	:	

This is a decision on the petition, filed October 31, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 29, 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

C:\Documents and Settings\fhicks\My Documents\470\Oct11\038212.wpd

---

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : July 23, 2007

TO SPE OF : ART UNIT 1755

SUBJECT : Request for Certificate of Correction for Appl. No.11/038311 patent no.7153796

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

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

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

Magdalene Talley

Certificates of Correction Branch

703-308-9390 ext. 116

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

L.A. LORENGO
SUPERVISORY PATENT EXAMINER

SPE 1755 **Art Unit**

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JUL 20 2005

BELL, BOYD, & LLOYD LLC
P. O. BOX 1135
CHICAGO IL 60690-1135

In re Application of	:	
Gholam A. Peyman	:	
Serial No.: 11/038,320	:	DECISION ON PETITION
Filed: January 17, 2005	:	
For: Bifocal Intraocular Telescope for Low Vision Correction	:	

This is in response to applicants' petition filed January 17, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of	:	
Peirre Diemunsch	:	
Application No. 11/038,325	:	DECISION ON PETITION
Filed: 21 July, 2005	:	
Atty Docket No. 03685-P0011A	:	

This is a decision on the petition filed on 21 July, 2005, under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **DISMISSED AS MOOT**.

A review of the record reveals that on 19 January, 2005, the application was deposited. On 8 June, 2005, a Notice of Incomplete Nonprovisional Application was mailed, stating that the application had not been accorded a filing date because the specification, including the claims, was missing, and because the application was deposited without drawings. The Notice also stated that the oath or declaration was missing. A two (2) month period for reply was set.

On 21 July, 2005, petitioner filed 25 pages of specification, including claims, one (1) page of abstract, and three (3) sheets of drawings. An executed declaration was also filed, as was the present petition.

The petition is dismissed as moot because the application was never abandoned. As the application was not entitled to a filing date as of the date of deposit because it was incomplete, it could not become abandoned. As such, the petition under 37 CFR 1.137(b) is unnecessary and will be dismissed as moot.

As the petition is unnecessary, the petition fee will be credited to counsel's deposit account, No. 19-4516, as authorized in the present petition.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of 21 July, 2005, the date a specification, including at least one claim, and the drawings were received in the USPTO.

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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986 BEDFORD STREET
STAMFORD CT 06905-5619

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In re Application of :
Diemunsch et al. :
Application Number: 11/038325 :
Filing Date: 07/21/2005 : ON PETITION
Attorney Docket Number: 03685-P0011A :

This is a decision on the petition under 37 CFR 1.137(b)[1] filed on December 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on August 14, 2008, for failure to timely submit a response to the non-final Office action mailed on May 13, 2008, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 8, 2008.

Receipt of the amendment filed on December 8, 2008, is acknowledged.

The application is referred to Technology Center Art Unit 3767 for further processing.

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

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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PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

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OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross A. :
Application No. 11/038,344 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. **IMP021** : 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 20, 2007.

The request is **NOT APPROVED.**

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

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

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

submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number). The request to withdraw as attorney filed on March 20, 2007 does not include one of the above two options.

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

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVENUE, UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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P. O. BOX 1146
MILL VALLEY, CA 94942

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OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross Alan :
Application No. 11/038,344 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. **IMP021** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 9, 2007.

The request is **NOT APPROVED.**

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

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

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) 272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE., UNIT H
GRASS VALLEY, CA 95945

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

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

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APR 25 2008

OFFICE OF PETITIONS

In re Application of :
TESSIEN, Ross A. :
Application No. 11/038,344 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. **IMP021** : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 22, 2008.

The request is **APPROVED.**

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

The request was signed by David G. Beck on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the sole named inventor Ross A. Tessien at the address indicated below.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ROSS TESSIEN**
C/O IMPULSE DEVICES, INC.
13366 GRASS VALLEY AVE, UNIT H
GRASS VALLEY, CA 95945

UNITED STATES PATENT AND TRADEMARK OFFICE

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NOV 28 2007

OFFICE OF PETITIONS

MACLEAN-FOGG COMPANY
1000 ALLANSON ROAD
MUNDELEIN, IL 60060

In re Application of :
Larry J. Wilson :
Application No. 11/038,356 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 08-9540-6520-000-8 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 7, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 24, 2006, which set a shortened statutory period for reply of three (3) months. Two-month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on July 25, 2006.

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 $2160 extension of time submitted on April 12, 2007 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

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

This matter is being referred to Technology Center AU 3677 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Dana Andrew Alden
The Alden Law Group LLP
2122 York Road, Suite 180
Oak Brook, IL 60523

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HALLIBURTON ENERGY SERVICES
P.O. BOX 819052
Dallas, TX 75381-9052

Mail Date: 04/21/2010

Applicant	: William M. Richards	: DECISION ON REQUEST FOR
Patent Number	: 7594763	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,369	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **631** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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RICHARD C. GILMORE
WORKMAN, NYDEGGER & SEELEY
1000 EAGLE GATE TOWER
60 EAST SOUTH TEMPLE
SALT LAKE CITY UT 84111

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AUG 25 2006

OFFICE OF PETITIONS

In re Application of :
David C. Winter et al :
Application No. 11/038,375 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 15499.376.1 :

This is a decision on the petition, filed August 24, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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 2, 2006, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 3637 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

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AUG 25 2006

Paper No. _____

OFFICE OF PETITIONS

Date : August 25, 2006

TO : Director, Office of Patent Publication

FROM : Office of the Deputy Commissioner
for Patent Examination Policy

SUBJECT : Withdrawal from Issue of

Applicant(s) :David C. Winter et al
Application No. :11/038,375
Filed :January 18, 2005

The above-identified application has been assigned Patent No. 7,104,202 and an issue date of September 12, 2006.

It is hereby directed that this application be withdrawn from issue at the request of the applicant.

Do not refund the issue fee.

The following erratum should be published in the Official Gazette if the above-identified application is published in the OG of September 12, 2006:

"All reference to Patent No. 7,104,202 to David C. Winter et al of Utah for PERSONAL TABLE appearing in the Official Gazette of September 12, 2006 should be deleted since no patent was granted."

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

cc: Paul Harrison, MDW-4B03,(FAX-273-5468)
Deneise Boyd, MDE-3D39 (FAX-273-5124)
Mary Louise McAskill, ST-8C15 (FAX 305-4372)
Niomi Farmer, ST-8C14 (FAX-305-4372)
Mary E. Johnson (Cookie), MDE-7C71 (FAX 273-0038
Duane Davis P/OPC MDE-7D89

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDWARD J. LYNCH
DUANE MORRIS LLP
20TH FLOOR
ONE MARKET, SPEAR TOWER
SAN FRANCISCO, CA 94105

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SEP 0 9 2005

OFFICE OF PETITIONS

In re Application of :
John Yan :
Application No. 11/038,377 :
Filed: January 19, 2005 :
For: PACKAGE OF SENSITIVE ARTICLES :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed August 17, 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(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 17, 2005 without an executed oath or declaration and naming John Yan as the sole inventor.

Petitioner has not submitted the required petition fee. An attempt was made to charge the fee to deposit account no. 04-1679, however the account contained insufficient funds. The $200.00 petition fee under 37 CFR 1.17(g) is required before the petition will be reviewed on the merits.

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

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

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

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

Edward J. Tannouse
Petitions Attorney
Office of Petitions
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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EDWARD J. LYNCH
DUANE MORRIS LLP
20TH FLOOR
ONE MARKET, SPEAR TOWER
SAN FRANCISCO, CA 94105

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
John Yan :
Application No. 11/038,377 :
Filed: January 19, 2005 :
For: PACKAGE OF SENSITIVE ARTICLES :

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(b)

This is in response to the request for reconsideration of petition under 37 CFR 1.47(b), filed October 24, 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(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on January 19, 2005 without an executed oath or declaration and naming John Yan as the sole inventor.

Accordingly, on March 17, 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 17, 2005, the original petition and a three (3) month extension of time were 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;

(2) an acceptable oath or declaration;

(3) the petition fee;

(4) a statement of the last known address of the non-signing inventor;

(5) proof of proprietary interest; and

(6) proof of irreparable damage.

Applicant lacks item (6), as set forth above.

As to item (6), Rule 47 applicant 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.

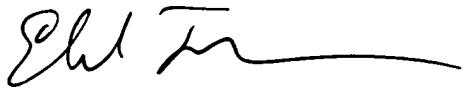
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
Box 1450
Alexandria, VA 22313

By FAX: (703) 872-9306
Attn: Office of Petitions

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

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



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

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EDWARD J. LYNCH
DUANE MORRIS LLP
20TH FLOOR
ONE MARKET, SPEAR TOWER
SAN FRANCISCO, CA 94105

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of :
John Yan :
Application No. 11/038,377 : DECISION GRANTING PETITION
Filed: January 19, 2005 : UNDER 37 CFR 1.47(b)
For: PACKAGE OF SENSITIVE ARTICLES :

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(b)," filed December 23, 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 after having been presented with the application papers. Specifically, the declaration and statement of facts of Edward J. Lynch and the copies of the cover letters sent to the non-signing inventor establish that the inventor was mailed the application papers, including the specification, claims and drawings, but failed to respond to the request that he sign the declaration. In addition, petitioner has shown Leap Medical (Leap) has a proprietary interest in the above-identified application with the copy of the "Employee Invention Assignment and Confidentiality Agreement" showing that the inventor had an obligation to assign any patent rights to Leap. The petition fee has been paid. Lastly, petitioner has submitted a declaration in compliance with 37 CFR 1.63 and 1.64 and demonstrated that petitioner has shown that such action is necessary to prevent irreparable damage.

It is assumed that the last known address of the non-signing inventor is the address submitted in the Declaration on August 17, 2005.

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

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

The application will be forwarded to the Technology Center 1700 for examination in due course.

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN YAN
128 ANNE WAY
LOS GATOS, CA 95032

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of
John Yan
Application No. 11/038,377
Filed: January 19, 2005
For: PACKAGE OF SENSITIVE ARTICLES

Dear JOHN YAN:

You are named as the sole inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 118 (United States Code), and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as the sole/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

EDWARD J. LYNCH
DUANE MORRIS LLP
20TH FLOOR
ONE MARKET, SPEAR TOWER
SAN FRANCISCO, CA 94105

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Kelley, Drye & Warren, LLP
3050 K Street, NW
Suite 400
Washington, DC 20007

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of
Terry Dahl et al.
Application No. 11/038,406
Filed: January 21, 2005
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 18, 2008.

The request is **APPROVED**.

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

The request was signed by John Coulby on behalf of all attorneys/agents associated with customer number 25243. All attorneys/agents associated with customer number 25243 have been withdrawn.

The correspondence address has been changed and is copied below.

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

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: Hugh H. Trout, III, M.D.
8218 Wisconsin Avenue
Suite 204
Bethesda, MD 20814

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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
11/038,406	01/21/2005	Terry Dahl	

CONFIRMATION NO. 5512

POWER OF ATTORNEY NOTICE

25243
KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

Date Mailed: 02/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

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

/kainabinet/

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

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Kelley, Drye & Warren, LLP
3050 K Street, NW
Suite 400
Washington, DC 20007

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of :
Terry Dahl et al. :
Application No. 11/038,407 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 18, 2008.

The request is **APPROVED**.

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

The request was signed by John Coulby on behalf of all attorneys/agents associated with customer number 25243. All attorneys/agents associated with customer number 25243 have been withdrawn.

The correspondence address has been changed and is copied below.

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

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: Hugh H. Trout, III, M.D.
8218 Wisconsin Avenue
Suite 204
Bethesda, MD 20814

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
11/038,407	01/21/2005	Terry Dahl	

CONFIRMATION NO. 5566

POWER OF ATTORNEY NOTICE

25243
KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

Date Mailed: 02/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

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

/kainabinet/

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

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3050 K Street, NW
Suite 400
Washington, DC 20007

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FEB 13 2008

OFFICE OF PETITIONS

In re Application of
Terry Dahl et al.
Application No. 11/038,408
Filed: January 21, 2005
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed January 18, 2008.

The request is **APPROVED**.

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

The request was signed by John Coulby on behalf of all attorneys/agents associated with customer number 25243. All attorneys/agents associated with customer number 25243 have been withdrawn.

The correspondence address has been changed and is copied below.

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

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: Hugh H. Trout, III, M.D.
8218 Wisconsin Avenue
Suite 204
Bethesda, MD 20814

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/038,408	01/21/2005	Terry Dahl	

CONFIRMATION NO. 5538

POWER OF ATTORNEY NOTICE

25243
KELLEY DRYE & WARREN LLP
3050 K STREET, NW
SUITE 400
WASHINGTON, DC 20007

Date Mailed: 02/13/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/18/2008.

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

/kainabinet/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

Charles Brantley
Micron Technology, Inc.
8000 S Federal Way, MS 1-525
Boise, ID 83716

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JUL 2 9 2005

OFFICE OF PETITIONS

In re Application of	:	
J Brett Rolfson	:	DECISION ON PETITION
Application No. 11/038,451	:	
Filed: January 19, 2005	:	
Atty Docket No. 95-0346.03	:	

This is a decision on the "PETITION UNDER 37 CFR 1.53(e)(2) TO REVIEW THE NOTICE OF OMITTED ITEM(S) IN A NONPROVISIONAL APPLICATION" filed May 9, 2005. Petitioner requests that the above-identified application be accorded a filing date of January 19, 2005, with pages 10-12 as a part of the original application disclosure.

Application papers in the above-identified application were deposited on January 19, 2005. However, on March 30, 2005, the Initial Patent Examination Division mailed applicant a "Notice Of Omitted Item(s) in a Nonprovisional Application." Applicant was thereby notified that the application papers had been accorded a filing date; however, pages 10-12 of the specification appeared to have been omitted.

In response, applicant timely filed the instant petition (and petition fee). Applicant asserts that pages 10-12 of the parent's specification were submitted on January 19, 2005, as indicated by the Return Receipt Postcard. In support thereof, applicant submits a copy of their return postcard from the USPTO. Petitioner also submits a full copy of the original specification.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the USPTO on January 19, 2005; 2) it specifically identifies the items being filed, including "specification (parent - 13 pages)" and 3) it lacks any annotation of nonreceipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted, including the 13 pages of specification, were filed on January 19, 2005.

The application papers already considered received in the Office on January 19, 2005, were reviewed along with the missing pages of specification submitted on petition. These papers together constitute the items described on the postcard receipt, including specification (parent - 13 pages). Petitioner has shown that pp. 10-12 were among the items present in the application on the date of deposit and should be included in the original application disclosure.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, petitioner's request to refund the petition fee is granted. The fee will be credited to Deposit Account No. 13-3092, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of January 19, 2005, using the application papers received in the Office and presently accorded that date; and pages 10-12 of the specification resubmitted on petition filed May 9, 2005; and
- consideration of the request for corrected filing receipt also filed May 9, 2005.

Applicant will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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OFFICE OF PETITIONS

In re Application of :
ANDERSEN, et al. :
Application No. 11/038,464 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. **449122079400** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 2007.

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

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

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BELL BOYD & LLOYD, LLP**
P.O. BOX 1135
CHICAGO, IL 60690

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MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD, SUITE 400
MCLEAN, VA 22102

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SEP 13 2007

OFFICE OF PETITIONS

In re Application of :
HEDLER, et al. :
Application No. 11/038,465 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. **543822011300** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 25, 2007.

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

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER LLP** has been revoked by the assignee of the patent application on July 20, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **ESCHWEILER & ASSOCIATES LLC**
NATIONAL CITY BANK BUILDING
CLEVELAND, OH 44114

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KLARQUIST SPARKMAN, LLP
121 SW SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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MAY 28 2010

OFFICE OF PETITIONS

In re Application of
Kevin Sahr
Application No. 11/038,484
Filed: January 21, 2005
Attorney Docket No. 8073-83480-01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed April 2, 2010.

The request is **APPROVED**.

A review of the file record indicates that Stewart L. Gitler: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Stewart L. Gitler has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

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

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Stewart L. Gitler
2461 South Clark Street, Suite 522
Arlington, VA 22202

cc: Geographic Resources and Integrated Data solutions Limited
4 Cataraqui Street Suite 312
Kingston, Ontario K7K 127
Canada

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DICKSTEN SHAPIRO MORIN & OSHINSKY LLP
2101 L ST NW
WASHINGTON DC 20037

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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Hideaki Hirai :
Application No. 11/038,524 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. R2184.0368/P368:

This is a decision on the "PETITION TO GRANT FILING DATE AND ACKNOWLEDGE RECEIPT OF DRAWINGS (FIGS. 1-20)", filed May 31, 2005, to accord the above-identified application a filing date of January 21, 2005, with 13 sheets of drawings as part of the original disclosure.

The petition is **GRANTED**.

Application papers in the above-identified application were filed on January 21, 2005. However, on January 21, 2005, the Initial Patent Examination Division mailed Applicant a "Notice of Incomplete NonProvisional Application." Applicant was notified that the application papers had not been accorded a filing date because the application was deposited without drawings. In addition, the oath or declaration was missing.

In response, Applicant filed the instant petition. Accompanying the petition was a copy of 13 drawing sheets. Applicant maintains that the application as originally filed included 13 pages of drawings. In support thereof, applicant submitted a postcard receipt identifying this application, itemizing "20 Figs. (13 sheets)" as enclosed, bearing a United States Patent and Trademark Office date-stamp of January 21, 2005, and lacking any notation of non-receipt of any item listed.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503.

Given the basis for granting the petition, the $400 petition fee has been refunded to Deposit Account No. 04-1073.

Receipt of the declaration submitted with the instant petition is acknowledged. The $130 surcharge for late filing of the declaration has also been charged to the Deposit Account, as authorized.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for further processing with a filing date of January 21, 2005, using the application papers received in the Office on that date and the 13 pages of drawings as resupplied on petition filed May 31, 2005, and for indication in Office records that 13 sheets of drawings were present on filing.

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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Whitham, Curtis & Christofferson, PC
11491 Sunset Hills Road
Suite 340
Reston, VA 20190

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MAY 31 2005

OFFICE OF PETITIONS

In re Application of :
Nakama et al. : DECISION ON PETITION
Application No. 11/038,535 :
Filed: January 21, 2005 :
Attorney Docket No. 02410387AA :

This is a decision on the petition filed April 4, 2005, requesting that the above-identified application be accorded a filing date of January 21, 2005, with page 17 of the specification as part of its original disclosure.

On January 21, 2005, applicants filed the above-identified application. On March 21, 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 21, 2005, and advising applicants that page 17 of the specification appeared to have been omitted.

On April 4, 2005, applicants filed, *inter alia*, the present petition, a copy of page 17 of the specification, and a copy of applicants' postcard receipt acknowledging receipt of 37 pages of specification, 17 claims, and an abstract on January 21, 2005.

Upon review of the record, page 17 of the specification, deposited on January 21, 2005, has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 21, 2005, included pages 17, which was subsequently misplaced in the United States Patent and Trademark Office. Therefore, the application, including page 17 of the specification, was complete on filing and will be granted a filing date of January 21, 2005.

Accordingly, the petition is granted.

The Notice of Omitted Item(s) was sent in error and is hereby vacated. Accordingly, no petition fee is necessary. The $400.00 petition fees will be credited to Deposit Account No. 50-2041.

The Office of Initial Patent Examination is instructed **to accord the application a filing date of January 21, 2005,** using the application papers submitted on that date, and page 17 of the specification submitted on April 4, 2005.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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FOUNTAINHEAD LAW GROUP
SUITE 509
900 LAFAYETTE STREET
SANTA CLARA, CA 95050

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OFFICE OF PETITIONS

In re Application of :
Paul William Ronald Self :
Application No. 11/038,560 : DECISION ON PETITION
Filed: January 19, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 000012-000100US :

This is a decision on the petition, filed March 20, 2006, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on January 18, 2006. 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 15, 2007 has been mailed under separate cover.

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

This application is being referred to Technology Center Art Unit 2817 appropriate action in the normal course of business on the reply received October 17, 2006 to the non-final Office action of July 11, 2006.

Frances Hicks
Petitions Examiner
Office of Petitions

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ALEXANDRIA, VA 22313-1450
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Paper No. None

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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OFFICE OF PETITIONS

In re Application Of:
Shian-Nan Lin, Cheng-Chia Hsu, and
Deng-Kang Chang
Application No. 11/038,565
Filed: January 18, 2005
Title: LIGHTING APPARATUS FORMED BY SERIALLY-DRIVEN LIGHTING UNITS

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

This is in response to the petition under 37 C.F.R. §1.47(b)[1], filed October 24, 2005.

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-Nan Lin as the sole inventor. On August 24, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

In reply, applicant filed the present petition, along with a portion of the associated fee, the surcharge, a statement of facts, several exhibits, and a declaration.

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1 A grantable petition under 37 CFR §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 CFR §1.63.

Petition fee requirement

The fee for filing a petition under 37 C.F.R. §1.47(b) is $200, pursuant to 37 C.F.R. §1.17(g). With this petition, Petitioner has submitted $130, and the petition does not appear to contain an authorization to charge any deficiencies to a Deposit Account.

The payment of the required petition fee is a prerequisite to the filing of a petition under 37 C.F.R. §1.47(b). Therefore, consideration of the merits of the petition before receipt of the filing fee in full would be premature.

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. §1.47(b)" and should include the balance of the petition fee that is due. This is not a final agency action within the meaning of 5 U.S.C 704.

The renewed petition under 37 C.F.R. §1.47(b) 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. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

It is noted in passing that this submission appears to have been submitted via facsimile transmission, and it appears to be of a rather poor quality. The two-page petition and the one-page listing of attachments are fully legible, however each of the attachments are not. As such, Petitioner is advised to submit higher quality copies of these attachments with his renewed petition.

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

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.

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FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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OFFICE OF PETITIONS

In re Application Of:	:	
Shian-Nan Lin, Cheng-Chia	:	
Hsu, and Deng-Kang Chang	:	DECISION ON PETITION UNDER
Application No. 11/038,565	:	37 C.F.R. §1.181 AND RENEWED
Filed: January 18, 2005	:	PETITION UNDER 37 C.F.R.
Title: LIGHTING APPARATUS	:	§1.47(b)
FORMED BY SERIALLY-DRIVEN	:	
LIGHTING UNITS	:	

This is in response to the petition under 37 C.F.R. §1.181 and the renewed petition under 37 C.F.R. §1.47(b)[1], concurrently filed on June 7, 2006.

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-Nan Lin as the sole inventor. On August 24, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional

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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.

Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §1.63 and the surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

A petition under 37 C.F.R. §1.47(a) was filed on October 24, 2005, and was dismissed via the mailing of a decision on March 7, 2006, for failure to submit the petition fee in full.

The petition under 37 C.F.R. §1.181:

On May 15, 2006, the Office improperly mailed a notice of abandonment, indicating that the present application had gone abandoned for failure to respond to the decision on March 7, 2006. It is noted that extensions of time were still available. As such, the petition under 37 C.F.R. §1.181 is **GRANTED**, and the holding of abandonment is hereby WITHDRAWN.

The renewed petition under 37 C.F.R. §1.47(a):

With the original petition, Petitioner submitted a portion of the petition fee, the surcharge, a statement of facts, and several exhibits.

It is noted that the previous decision indicated that the attachments were not fully legible:

> It is noted in passing that this submission appears to have been submitted via facsimile transmission, and it appears to be of a rather poor quality. The two-page petition and the one-page listing of attachments are fully legible, however each of the attachments are not. As such, Petitioner is advised to submit higher quality copies of these attachments with his renewed petition.

With this renewed petition, it appears that Petitioner has decided not to comply with this request for higher quality copies. As such, only the attachments which are decipherable by the undersigned will be considered.

Petitioner has included a one-month extension of time to make timely this response. Petitioner has met requirements (1) -(3) of 37 C.F.R. §1.47(b).

Regarding the petition fee, Petitioner had previously submitted $130, when $200 was due. On renewed petition, Petitioner has submitted another $200. As such, the original $130 will be refunded to him via the preparation of a treasury check in due course.

Regarding the fourth requirement, Petitioner has not established that a complete copy of the application was sent to each of the

non-signing joint inventors. Petitioner has alleged that his associate, one Lawrence Wang, who is in Taiwan, mailed a complete copy of the application to each of the joint inventors. As such, Petitioner does not have firsthand knowledge of this event, and Petitioner's statement is merely an allegation. On renewed petition, Petitioner should provide a statement from Mr. Wang.

Regarding the fifth requirement, Petitioner has provided a copy of the employment agreement between Party A and Party B, where Party A is defined as Ambit Microsystems Corporation and Party B is defined as the two inventors (two separate agreement documents were submitted). The relevant portion of the assignment agreement indicates:

> the invention yielded by party B in performance of duties shall be patented to party A.
>
> The creation by Party B using party A's equipment, supply, facilities, or in accordance with Party A's business secret shall be deemed an invention yielded by Party B in performance of duties.

Petitioner has not indicated if the invention was yielded by the inventors in performance of job-related duties, if the invention occurred using the employer's equipment, supply, facilities, or in accordance with any trade secret of the employer. As such, proprietary interest in the present invention has not been established. On renewed petition, Petitioner may wish to consider addressing these points.

Regarding the sixth requirement, no proof of irreparable damage has been submitted[2]. A statement by Rule 47(b) applicant that the filing is necessary to preserve the rights of the parties would be sufficient.

Regarding the seventh requirement, the declaration cannot be accepted as nobody has executed the declaration on behalf of the inventor[3]. On renewed petition, Petitioner should have this deficiency rectified. Petitioner has submitted what appears to be several copies of a page which is intended to be added to the declaration, however the quality of this page is so poor that the contents of the same cannot be fully discerned, and this evidence has not been considered.

Similarly, Petitioner has included what appears to be a copy of a government document which memorialize the merger of Hon Hai and Ambit, however the quality of this page is so poor that the

---

2 See MPEP §409.03(g).

3 See MPEP 409.03(b)(A).

contents of the same cannot be fully discerned, and consequently, this evidence has not been considered.

In view of the foregoing, this petition is **DISMISSED**.

Any reply must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Second Renewed Petition Under 37 C.F.R. §1.47(b)" and should include the balance of the petition fee that is due. This is not a final agency action within the meaning of 5 U.S.C 704.

The second renewed petition under 37 C.F.R. §1.47(b) 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].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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.

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OFFICE OF PETITIONS

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FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

In re Application Of:
Shian-Nan Lin, Cheng-Chia Hsu, and Deng-Kang Chang
Application No. 11/038,565
Filed: January 18, 2005
Title: LIGHTING APPARATUS FORMED BY SERIALLY-DRIVEN LIGHTING UNITS

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

This is in response to the second renewed petition under 37 C.F.R. §1.47(b)[1], filed on October 10, 2006.

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-

1 A grantable petition under 37 C.F.R. §1.47(b) requires:
(1) the petition fee as set forth in 37 C.F.R. §1.17(g);
(2) the surcharge as set forth in 37 C.F.R. §1.16(e), if the petition is not filed at the time of filing 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
(6) proof that the Rule 47(b) applicant has sufficient proprietary interest in the subject matter to justify the filing of the application;
(7) proof of irreparable damage, and;
(8) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116 and 37 C.F.R. §1.63.

Nan Lin as the sole inventor. On August 24, 2005, applicant was mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration in compliance with 37 CFR §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 under Rule §1.47(b) was filed on October 24, 2005, and was dismissed via the mailing of a decision on March 7, 2006, for failure to submit the petition fee in full. The renewed petition was filed on June 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006.

With this second renewed petition, Petitioner has submitted a petition for a one-month extension of time to make timely this response, and has met each requirement of Rule §1.47(b) but for the fourth and eighth requirements of the same.

Regarding the fourth requirement, Petitioner has still not established that a complete copy of the application was sent to each of the non-signing joint inventors. Petitioner has alleged that his associate, one Lawrence Wang, who is in Taiwan, mailed a complete copy of the application to each of the joint inventors. As such, Petitioner does not have firsthand knowledge of this event, and Petitioner's statement is merely an allegation. On third renewed petition, Petitioner should provide a statement from Mr. Wang.

Regarding the eighth requirement, the declaration cannot be accepted as filed. Petitioner has filed three declarations, one for each inventor, each of which indicates that the listed individual is the "sole or first inventor," and there is no indication on any of these three sheets that additional inventors are named on supplemental sheets.

Petitioner should re-mail acceptable declarations to each of the non-signing joint inventors, and include statements of facts from a person/people having first-hand knowledge of both the mailing of the complete copy of the application and the mailing of the corrected declaration to each of the inventors.

As such, this petition is **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 "Third 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 third renewed petition under 37 C.F.R. §1.47(b) 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. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

2 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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ALEXANDRIA, VA 22313-1450
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Paper No. None

WEI TE CHUNG
FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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MAR 12 2007

OFFICE OF PETITIONS

In re Application Of:	:	
Shian-Nan Lin, Cheng-Chia	:	
Hsu, and Deng-Kang Chang	:	DECISION ON THIRD RENEWED
Application No. 11/038,565	:	PETITION PURSUANT TO 37 C.F.R.
Filed: January 18, 2005	:	§1.47(A)
Title: LIGHTING APPARATUS	:	
FORMED BY SERIALLY-DRIVEN	:	
LIGHTING UNITS	:	

This is in response to the third renewed petition under 37 C.F.R. §1.47(a)[1], filed on January 17, 2007 and January 19, 2007.

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-Nan Lin as the sole inventor. On August 24, 2005, applicant 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

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $400;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 C.F.R. §1.63.

surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

The previous decisions erroneously indicted that the petitions were filed under Rule §1.47(b), due to Petitioner's indication on filing that there is only one inventor, Mr. Lin, associated with the present application.

The original petition was filed on October 24, 2005, and was dismissed via the mailing of a decision on March 7, 2006, for failure to submit the petition fee in full. The renewed petition was filed on June 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006.

The second renewed petition was filed on October 10, 2006, and a decision was mailed on November 13, 2006, indicating that each requirement of Rule §1.47(b) had been met, but for the requirements that a complete copy of the application be sent to the non-signing joint inventors and the requirement that an acceptable oath/or declaration be provided.

With this third renewed petition, Petitioner has again failed to meet the fourth and sixth requirements of Rule §1.47(a).

Regarding the fourth requirement, Petitioner has still not established that a complete copy of the application was sent to each of the non-signing joint inventors.

On page 2 of the second renewed petition, it was set forth that:

> Petitioner has alleged that his associate, one Lawrence Wang, who is in Taiwan, mailed a complete copy of the application to each of the joint inventors. As such, Petitioner does not have firsthand knowledge of this event, and Petitioner's statement is merely an allegation. On third renewed petition, Petitioner should provide a statement from Mr. Wang.

With this third renewed petition, Petitioner has included a statement from Mr. Wang, where he indicates that he prepared "the documents as shown in Appendix 1/2 and Appendix 1/2' and mailed such documents to" the last known addresses of the two non-signing inventors. The appendices have been reviewed in the electronic file, and they appear to contain only the declaration. As such, it does not appear that a statement has been provided from one having firsthand knowledge of the mailing of a complete copy of the application to the last known addresses of the non-signing joint inventors.

Regarding the sixth requirement, the declaration cannot be accepted as it does not indicate that separate sheets are attached (note that in the top right corner of the supplemental sheets to the declaration (pages two and three), the field "ADDITIONAL INVENTOR(S)" Supplemental Sheet Page ___ of ___" has not been filled out.

As such, this third renewed 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 "Fourth Renewed Petition Under 37 C.F.R. §1.47(a)." This is not a final agency action within the meaning of 5 U.S.C 704. The third renewed petition under 37 C.F.R. §1.47(b) 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].

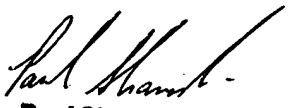
Before the fourth renewed petition is filed, Mr. Wang should:

- **Prepare an acceptable declaration, with the supplemental sheets clearly labeled as such,**
- **have both signing inventors execute this acceptable declaration, and;**
- **mail both the declarations and complete copies of the application to the last known addresses of the non-signing inventors, and give these individuals an appropriate time to respond.**

With the fourth renewed petition, Petitioner should provide:

- **An acceptable declaration which has been signed by each of the signing joint inventors, and:**
- **a statement from Mr. Wang, attesting that he has done each of the actions discussed above.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.



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

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.

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ALEXANDRIA, VA 22313-1450
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FOXCONN INTERNATIONAL, INC.
1650 MEMOREX DRIVE
SANTA CLARA CA 95050

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AUG 0 6 2007

OFFICE OF PETITIONS

In re Application Of:	:	
Shian-Nan Lin, Cheng-Chia	:	
Hsu, and Deng-Kang Chang	:	DECISION ON FOURTH RENEWED
Application No. 11/038,565	:	PETITION PURSUANT TO 37 C.F.R.
Filed: January 18, 2005	:	§1.47(A)
Title: LIGHTING APPARATUS	:	
FORMED BY SERIALLY-DRIVEN	:	
LIGHTING UNITS	:	

This is in response to the fourth renewed petition under 37 C.F.R. §1.47(a)[1], filed on July 16, 2007.

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-Nan Lin as the sole inventor. On August 24, 2005, applicant 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

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1 A grantable petition under 37 C.F.R. §1.47(a) requires:

(1) the petition fee of $400;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 C.F.R. §1.63.

surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

An original petition was filed on October 24, 2005, and was dismissed via the mailing of a decision on March 7, 2006, for failure to submit the petition fee in full. The renewed petition was filed on June 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006.

A second renewed petition was filed on October 10, 2006, and a decision was mailed on November 13, 2006, indicating that each requirement of Rule §1.47(a) had been met, but for the requirements that a complete copy of the application be sent to the non-signing joint inventors and the requirement that an acceptable oath/or declaration be provided.

A third renewed petition was filed on January 17, 2007 and January 19, 2007, and was dismissed via the mailing of a decision on March 12, 2007.

It is noted that with the third renewed petition, Petitioner had submitted a declaration that had been executed by the first two inventors.

With this fourth renewed petition, Petitioner has submitted a declaration that has been executed only by the first inventor. Petitioner has also submitted a two-month extension of time so as to make timely this response - it is noted that this submission contains a certificate of mailing dated July 12, 2007. Petitioner has further established that a complete copy of the application was sent to the non-signing inventors, and has submitted an acceptable declaration.

Petitioner has established that a complete copy of the application was sent to the three non-signing joint inventors, as well as a complete copy of the application, and has submitted an acceptable declaration.

Petitioner has failed to provide the last known address for Shian-Nan Lin. This was not required previously, as up until this most recent petition, Mr. Lin was a signing inventor.

As such, this fourth renewed 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 "Fifth Renewed Petition Under 37 C.F.R. §1.47(a)." This is not a final agency action within the meaning of 5 U.S.C 704. The third renewed petition under 37 C.F.R. §1.47(a) 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].

On fifth renewed petition, Petitioner must provide the last known address for Shian-Nan Lin.

It is further noted that Petitioner has provided the petition fee on numerous occasions. The multiple payments will be refunded via the mailing of a treasury check 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
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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.

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Paper No. None

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FOXCONN INTERNATIONAL, INC.
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NOV 0 5 2007

OFFICE OF PETITIONS

In re Application Of:
Yi-Hsun Lin, Shian-Nan Lin, Cheng-Chia Hsu, and Deng-Kang Chang
Application No. 11/038,565
Filed: January 18, 2005
Title: LIGHTING APPARATUS FORMED BY SERIALLY-DRIVEN LIGHTING UNITS

DECISION ON FIFTH RENEWED PETITION PURSUANT TO 37 C.F.R. § 1.47(A)

This is in response to the fifth renewed petition under 37 C.F.R. §1.47(a)[1], filed on October 12, 2007[2].

The above-identified application was filed January 18, 2006, without an executed oath or declaration and identifying Shian-Nan Lin as the sole inventor. On August 24, 2005, applicant 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

---

1 A grantable petition under 37 C.F.R. §1.47(a) requires:
(1) the petition fee of $400;
(2) a surcharge of either $65 or $130 if the petition is not filed at the time of filing the application;
(3) a statement of the last known address of the non-signing inventors;
(4) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review;
(5) proof that the non-signing inventor refuses to sign the oath or declaration after having been presented with the application papers if the inventor refuses to sign, or proof that diligent efforts have been made to locate the non-signing inventor if he or she cannot be found, and;
(6) a declaration which complies with 37 C.F.R. § 1.63.

2 The petition contains a certificate of mailing dated October 9, 2007, and it is noted that October 8, 2007 was a Federal Holiday.

surcharge for the late filing of the oath or declaration. The notice set a two-month period for reply.

An original petition was filed on October 24, 2005, and was dismissed via the mailing of a decision on March 7, 2006, for failure to submit the petition fee in full. The renewed petition was filed on June 7, 2006, and was dismissed via the mailing of a decision on July 5, 2006. A second renewed petition was filed on October 10, 2006, and a decision was mailed on November 13, 2006, indicating that each requirement of Rule § 1.47(a) had been met, but for the requirement that a complete copy of the application be sent to the non-signing joint inventors and the requirement that an acceptable oath/or declaration be provided. A third renewed petition was filed on January 17, 2007 and January 19, 2007, and was dismissed via the mailing of a decision on March 12, 2007. A fourth renewed petition was filed on July 16, 2007 and was dismissed via the mailing of a decision on August 6, 2007.

With this fifth renewed petition, Petitioner has met each of the five requirements of Rule § 1.47(a), and has submitted all required fees. Therefore, this fifth renewed petition pursuant to Rule § 1.47(a) is **GRANTED** and this application is hereby accorded Rule § 1.47 status.

This Office will forward notice of this application's filing to the non-signing inventors at the addresses given on the declaration. Notice of the filing of this application will also be published in the Official Gazette.

The Office of Patent Application Processing (OPAP) will be notified of this decision so that the application may receive further processing.

The general phone number for OPAP is 571-272-4000. Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225[3].

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Schwegman, Lundberg & Woessner, P.A.
P.O. Box 2938
Minneapolis, MN 55402

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of
Robert Owens
Application No. 11/038,566
Filed: January 18, 2005
Attorney Docket No. 2046.089US1

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 11, 2006.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Andre Marais and all attorneys/agents of record has been revoked by the assignee of the patent application on May 2, 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: Husch Blackwell Sanders, LLP
Husch Blackwell Sanders, LLP
Welsh & Katz
120 S Riverside Plaza
22nd Floor
Chicago, IL 60606

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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MAR 02 2009

OFFICE OF PETITIONS

In re Application of :
KASZA, Kenneth E. et al. :
Application No. 11/038,570 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. **24887-0002001 / UC04008** : 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 09, 2008 and resubmitted January 28, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Brinks Hofer Gilson & Lione has been revoked by the assignee of the patent application on January 30, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **FISH & RICHARDSON PC**
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : March 4, 2009

TO SPE OF : ART UNIT 1796

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/038571 /7473748

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

FOR IFW FILES: Column 35, claim renumbering

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.

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

Comments: _____

Vern Tagannethan
SPE

1796
Art Unit

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P.O. BOX 2938
MINNEAPOLIS MN 55402

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OFFICE OF PETITIONS

In re Application of :
Kao, et al. :
Application No. 11/038,602 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 303.943US6 :

This is a decision on the petition under 37 CFR 1.137(b), filed August 4, 2006 (certificate of mailing date August 1, 2006), to revive the above-identified application.

This application became abandoned for failure to timely pay the issue fee and publication fee within three (3) months of the mailing of the Notice of Allowance and Fee(s) Due, mailed December 1, 2005. Accordingly, this application became abandoned on March 2, 2006. A Notice of Abandonment was mailed on August 10, 2006.

Applicants have submitted a proper reply in the form of the issue fee, the publication fee and a completed PTOL-85, an acceptable statement of the unintentional nature of the delay in responding to the December 1, 2005 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition is **granted**.

This application is being forwarded to Publishing Division for processing into a patent.

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

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : October 12,2007

TO SPE OF : ART UNIT 2624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/038,603 Patent No.: 7236636 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

Matthew C. Bella
MATTHEW C. BELLA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600
SPE

2624
Art Unit

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

In re Application of
LaHure, et al.
Application No. 11/038,606
Filed: 19 January, 2005
Attorney Docket No. GTRC-234

: DECISION ON PETITION

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 24 October, 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 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on 19 January, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/640,745, which was filed on 30 December, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 119(e) after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 119(e) is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

Accordingly, before the petition under 37 C.F.R. 1.78(a)(6) can be granted, a renewed petition under 37 C.F.R. 1.78(a)(6) and either an Application Data Sheet or a substitute amendment (complying with 37 C.F.R. 1.121 and 37 C.F.R. 1.76(b)(5)) deleting the incorporation by reference statement, are required.

The $1,410.00 fee required by 37 C.F.R. 1.78(a)(6)(ii) was paid.

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 John J. Gillon, Jr., attorney, at (571) 272-3214.

Anthony Knight
Supervisor
Office of Petitions

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WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI OH 45202

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MAR 2 6 2009

OFFICE OF PETITIONS

In re Application of :
LaHure, et al. :
Application No. 11/038,606 : DECISION ON PETITION
Filed: 19 January, 2005 :
Attorney Docket No. GTRC-234 :

This is a decision on the petition under 37 C.F.R. §1.78(a)(6), filed on 30 September, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **GRANTED.**

A petition under 37 C.F.R. §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 C.F.R. §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 C.F.R. §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 C.F.R. §1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on 19 January, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/640,745, which was filed on 30 December, 2004, and for which priority is claimed. A reference to the prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title.

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

(The delay statement previously was set forth.)

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. §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 C.F.R. §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.

This application is being forwarded to Technology Center AU 1791 for consideration by the Examiner of the claim under 35 U.S.C. § 119(e) of the prior-filed provisional application.

Questions concerning this matter may be directed to John Gillon at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Anthony Knight
Supervisor
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
11/038,606	01/19/2005	1791	1300	GTRC-234	15	3

CONFIRMATION NO. 9497

CORRECTED FILING RECEIPT

26875
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

OC000000035140251

Date Mailed: 03/23/2009

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

Applicant(s)

Jean-Claude Lahure, Luxembourg City, LUXEMBOURG;
Olivier de Barsy, Eischen, LUXEMBOURG;
Xavier Sebastien Fraipont, Ochain, BELGIUM;

Assignment For Published Patent Application

The Goodyear Tire & Rubber Company

Power of Attorney: The patent practitioners associated with Customer Number 26875

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/640,745 12/30/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/01/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/038,606**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

PNEUMATIC TIRE WITH HIGH TURNUP, LOCKED BEAD CONSTRUCTION

Preliminary Class

152

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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53 W. JACKSON BLVD
CHICAGO IL 60604

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SEP 21 2006

OFFICE OF PETITIONS

In re Application of :
Hartmut Ilch et al :
Application No. 11/038,613 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. 14057 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

A review of the file record indicates that Catherine L. Glemrich: (1) does not have power of attorney in this patent application; and (2) has been employed or otherwise engaged in the proceedings in this patent application. In view of the present decision, Catherine L. Glemrich has been withdrawn from the present application and may not prepare or submit papers under 37 C.F.R. § 1.34, or correspond in any manner in this application unless appointed in an acceptable power of attorney under 37 C.F.R. § 1.32(b).

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

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

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

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

David Bucci
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ORUM & ROTH
53 W. JACKSON BLVD
CHICAGO, IL 60604

In re Application of Ilch et al. :
Application No. 11/038,613 : Decision on Petition
Filing Date: January 18, 2005 :
Attorney Docket No. 14057 :

This is a decision on the petition under 37 CFR 1.181 filed July 28, 2008, requesting the Office withdraw the holding of abandonment.

The petition is **granted.**

The Office mailed a non-final Office action on June 18, 2007. The Office action set a three-month shortened statutory period for reply. The application file includes a reply to the non-final Office action filed December 20, 2007. The Office also received payment for a three-month extension of time on December 20, 2007.

Although the reply was not filed on or before December 18, 2007, the reply is timely because the reply includes a proper Certificate of Mailing dated December 18, 2007.

The Office mailed a Notice of Abandonment on December 27, 2007. The Notice stated the application was abandoned because the Office had not received a reply to the June 18, 2007. The date the reply was scanned into the Image File Wrapper for the application is unknown. Therefore, at the time the Notice of Abandonment was mailed, the file may not have contained a copy of the reply. However, regardless of the date the December 20, 2007 reply was placed in the file, the application is clearly not abandoned.

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

Technology Center Art Unit 3643 will be informed of the instant decision and the application, including the reply filed December 20, 2007, will be further examined in due course.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 04/21/2010

Applicant	: Norman N. Ng	: DECISION ON REQUEST FOR
Patent Number	: 7647430	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,632	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **825** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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QUARLES & BRADY LLP
411 E. WISCONSIN AVENUE
SUITE 2040
MILWAUKEE, WI 53202-4497

Mail Date: 04/20/2010

Applicant	: Brian D. Halligan	: DECISION ON REQUEST FOR
Patent Number	: 7603240	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,642	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **131** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHINJYU GLOBAL IP COUNSELORS LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

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DEC 30 2005

OFFICE OF PETITIONS

In re Application of	:	
Hitoshi Ishii et al	:	
Application No. 11/038,643	:	DECISION GRANTING PETITION
Filed: January 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. NS-US045262	:	

This is a decision on the petition, filed December 21, 2005, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 15, 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) 272-3218.

This matter is being referred to Technology Center AU 3747 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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due at the time of payment), 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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of :
Meade et al. :
Application No. 11/038,647 : ON PETITION
Filed: January 18, 2005 :
Title: Pharmaceutical Compositions Based on Anticholinergics and Pegsunercept :

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed February 10, 2006.

The petition to withdraw the holding of abandonment is **Dismissed**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on April 8, 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 June 9, 2005. A Notice of Abandonment was mailed on January 5, 2006.

Petitioner argues a response to the April 8, 2005 Notice was sent via facsimile on April 25, 2005. In support of the petition, petitioner has provided a copy of the correspondence which contains a certificate of transmission pursuant to 37 CFR 1.8, a statement from applicant's attorney and a copy of the sending unit's report confirming transmission.

The Office has attempted to process the submission of the $130.00 surcharge fee. However, Andrea D. Small is not an authorized user of the deposit account No. 02-2955. Accordingly, petitioner has not provided a proper reply to the Notice of Missing Parts.

Petitioner may wish to file a petition under 37 CFR 1.137.

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
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM CORPORATION
900 RIDGEBURY ROAD
P. O. BOX 368
RIDGEFIELD CT 06877-0368

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of :
Meade et al. :
Application No. 11/038,647 : ON PETITION
Filed: January 18, 2005 :
Title: Pharmaceutical Compositions Based on :
Anticholinergics and Pegsunercept

This is a decision on the renewed petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 18, 2006.

The petition to withdraw the holding of abandonment is **Granted**.

This above-identified application became abandoned for failure to file a response to a Notice to File Missing Parts which was mailed on April 8, 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 June 9, 2005. A Notice of Abandonment was mailed on January 5, 2006.

Petitioner argues a response to the April 8, 2005 Notice was sent via facsimile on April 25, 2005. In support of the petition, petitioner has provided a copy of the correspondence which contains a certificate of transmission pursuant to 37 CFR 1.8, a statement from applicant's attorney and a copy of the sending unit's report confirming transmission.

Based on the facts stated in the instant petition and the corroborative evidence provided, it is concluded that the holding of abandonment was improperly imposed.

This 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 at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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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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JUN 0 5 2006

OFFICE OF PETITIONS

Applicant: Hogle et al.
Appl. No.: 11/038,652
Filing Date: January 11, 2005
Title: OLIGOMERIZATION OF HEPATITIS DELTA ANTIGEN
Attorney Docket No.: 0725.1056-002
Pub. No.: US 2005/0170337 A1
Pub. Date: August 4, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on September 6, 2005, for the above-identified application

The request is DISMISSED.

Applicant requests that the application be republished because the patent application publication contains a material error in dependent claim 33 as extra text appears after the period. The phrase "the solid phase assay is an ELISA assay." is misprinted as "the solid phase assay is an ELISA assay.peb;normal".

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 solid phase assay is an ELISA assay." is misprinted as "the solid phase assay is an ELISA assay.peb;normal" is an Office error but the mistake is not a material error under 37 CFR 1.221(b). The error is a typographical error, which is clearly understandable to one of ordinary skill in the art in reading the claim as the extra text appears after the period and one of ordinary skill in the art know what a ELISA assay is. The mistake is a minor typographical, which does not affect the understanding of the dependent claim. The mistake does not affect the public's ability to appreciate the technical disclosure of the patent

[1] Changes to Implement Eighteen-Month Publication of Patent Applications, 65 FR 57023, 57038 (Sept. 20, 2000), 1239, Off. Gaz. Pat. Office Notices 63, 75 (Oct. 10, 2000) (final rule).

application publication, or determine the scope of the patent application publication or determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent.

The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221 (a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18 (d) and the processing fee set forth in § 1.17 (i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18 (d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709 (voice).

Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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MERIAL LIMITED
3239 SATELLITE BLVD.
DULUTH GA 30096-4640

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OFFICE OF PETITIONS

In re Application of	:	
Poulet et al.	:	
Application No. 11/038,682	:	DECISION GRANTING PETITION
Filed: January 19, 2005	:	UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. MER 04-018	:	

This is a decision on the petition under 37 CFR 1.78(a)(6), filed November 11, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of prior-filed provisional Application No. 60/537,849, filed January 21, 2004, as set forth in the amendment filed January 18, 2008.

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 by 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The instant nonprovisional application was pending at the time of filing of the reference to the prior-filed provisional application as required by 37 1.78(a)(5)(iii). Additionally, the instant nonprovisional application was filed within twelve months of the filing date of the prior-filed provisional application, Application No. 60/537,849, which was filed on January 21, 2004, for which priority is claimed.

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the above-noted, prior-filed provisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional application satisfies the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Any other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center AU 1648 for appropriate action on the amendment submitted January 18, 2008, including consideration by the examiner of the claim under 35 U.S.C. §119(e) for the benefit of priority to prior-filed provisional Application No. 60/537,849.

Liana Walsh
Petitions Examiner
Office of Petitions

Enclosure: 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
11/038,682	01/19/2005	1648	2130	MER 04-018	40	2

CONFIRMATION NO. 3538

CORRECTED FILING RECEIPT

Judy Jarecki-Black, Esq.
Merial Limited
3239 Satellite Blvd.
Duluth, GA 30096-4640

Date Mailed: 03/10/2009

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

Applicant(s)

Herve Poulet, Sainte Foy-Les-Lyon, FRANCE;
Denis Barral, Heyrieux, FRANCE;

Power of Attorney:
Thomas Kowalski--32147
Judy Jarecki-Black--44170

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/537,849 01/21/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/038,682**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Inactivated FCV vaccines

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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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JUDY JARECKI-BLACK ESQ
MERIAL LIMITED
3239 SATELLITE BLVD
DULUTH GA 30096-4640

MAILED

NOV 06 2009

OFFICE OF PETITIONS

In re Application of :
Poulet, et al. :
Application No. 11/038,682 : DECISION ON PETITION
Filed: January 19, 2005 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. MER 04-018 :

This is a decision on the "PETITION FOR ACCEPTANCE OF UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C 119(e)", filed September 28, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), filedto accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed application 10/368,861, filed February 18, 2003, 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.

Petitioner did not provide 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. Nevertheless, petitioner's statement is being construed as such. Petitioner should notify the Office if this is not correct.

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 Petitions Attorney Cliff Congo at (571) 272-3207. 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 1648 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to prior-filed application No. 10/368,861.

Anthony Knight
Supervisor
Office of Petitions

Enc: Corrected Filing Receipt (3 pages)

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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
11/038,682	01/19/2005	1648	2130	MER 04-018	40	2

CONFIRMATION NO. 3538

Judy Jarecki-Black, Esq.
Merial Limited
3239 Satellite Blvd.
Duluth, GA 30096-4640

CORRECTED FILING RECEIPT

Date Mailed: 11/02/2009

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

Applicant(s)

Herve Poulet, Sainte Foy-Les-Lyon, FRANCE;
Denis Barral, Heyrieux, FRANCE;

Power of Attorney:
Thomas Kowalski--32147
Judy Jarecki-Black--44170

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/537,849 01/21/2004
and is a CIP of 10/368,861 02/18/2003 PAT 7,029,682
which is a DIV of 09/616,781 07/14/2000 PAT 6,534,066
which claims benefit of 60/193,197 03/30/2000

Foreign Applications
FRANCE 99 09420 07/16/1999
FRANCE 00 01759 02/11/2000

If Required, Foreign Filing License Granted: 06/02/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/038,682**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Inactivated FCV vaccines

Preliminary Class

435

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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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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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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APR 21 2008

OFFICE OF PETITIONS

In re Application of :
Steven J. WALKER et al :
Application No. 11/038,721 : DECISION ON PETITION
Filed: 1/20/2005 :
Attorney Docket No. OTD-030821-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 2/8/2008, 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 2/5/2008, as required by the Notice of Allowance and Fee(s) Due, mailed 11/5/2007. Accordingly, the date of abandonment of this application is 2/6/2008.

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

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Collin A. Rose appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Collin A. Rose 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. Collin A. Rose, 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 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 Quyen Leung at (571) 272-6051 or, in her absence, the undersigned at (571) 272-7099.

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

for David A. Bucci
Petitions Examiner
Office of Petitions

cc: COLLIN A. ROSE
P.O. BOX 3267
HOUSTON, TEXAS 77253-3267

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CHRISTOPHER C. WINSLADE
MCANDREWS, HELD & MALLOY, LTD.
500 WEST MADISON STREET
34TH FLOOR
CHICAGO, IL 60661

Mail Date: 04/21/2010

Applicant	: Alexander G. MacInnis	: DECISION ON REQUEST FOR
Patent Number	: 7610603	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1244** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Scott J. Brabec	: DECISION ON REQUEST FOR
Patent Number	: 7596415	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,731	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **358** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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ATTENTION: DOCKETING DEPARTMENT
P.O BOX 10500
McLean, VA 22102

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OCT 16 2008

OFFICE OF PETITIONS

In re Application of :
Salvatore Veni III et al. :
Application No. 11/038,736 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 015571-0361735 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 27, 2008, to revive the above-identified application.

The petition is **GRANTED**.

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 September 20, 2007. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is December 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $405.00, and the submission required by 37 CFR 1.114; (2) the petition fee of $770.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

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

This application is being referred to Technology Center AU 2612 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Anthony G. Smith
Pillsbury Winthrop Shaw Pittman LLP
12255 El Camino Real, Suite 300
San Diego, CA 92130-4088

Application No: 11/038,736 Date: 10/9/08

CHECKLIST - PETITION TO REVIVE (UNINTENTIONAL) 37 CFR 1.137(b)

Petition under 37 CFR 1.137(b) requires:

1. Petition fee;
2. Reply and/or issue fee;
3. Terminal disclaimer with disclaimer fee - utility and plant filed before 6/8/95 and all design cases;
4. Statement that the entire delay was unintentional.

Petition Date: 6/27/08

Petition Fee: (✓) $770/SM ( ) $1540/LG ( ) Not Paid

Is statement of unintentional delay present? (✓) YES ( ) NO (Can statement be construed as unintentional?)

Is petition signed by attorney of record? (✓) YES ( ) NO Petition address the same as address in palm. (✓) YES (✓) NO

Mail Date of Office Action: 9/20/07

Type of Office Action: Final Rej

Statutory Response Period Set: ( ) 30 days ( ) 1 month ( ) 2 months (✓) 3 months

Ext of time obtained w/in SSP: (✓) None ( ) 1 month ( ) 2 months ( ) 3 months ( ) 4 months

Abandonment Date: 12/21/07

Type of reply received: RCE

Terminal Disclaimer required: ( ) YES (✓) NO (utility applications filed after 6/8/95 or before 5/29/00 and all design applications)

Petition Decision Codes

502 - 37 CFR 1.137(b) Revival based on unintentional delay in abandon application
510 - 37 CFR 1.137(b) Revival to accept late payment of issue fee (unintentional)

Granted
502

Fee Codes

1453/2453 *$1540/$770* *502/510 Petitions*

Paralegal: JoAnne ( ) Dismissed (✓) Granted

MAG:01/07

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
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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional) 015571-0361735

First named inventor: Salvatore Veni III

Application No.: 11/038,736 Art Unit: 2612

Filed: 01/18/2005 Examiner: Holloway III, Edwin C

Title: PAGING SYSTEM FOR QUEUE MANAGEMENT

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

[X] Small entity-fee $ 770.00 (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 Amendment with RCE (identify type of reply):

[ ] has been filed previously on _____.
[X] is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.
[ ] has been paid previously on _____.
[ ] is enclosed herewith.

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ 65.00 for a small entity or $ 130.00 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	6/27/2008 Date
Anthony G, Smyth Typed or printed name	55636 Registration Number, if applicable
Pillsbury Winthrop Shaw Pittman LLP Address 12255 El Camino Real, Suite 300, San Diego, CA 92130-4088 US Address	858-509.4007 Telephone Number

Enclosures:
- [X] Fee Payment
- [X] Reply
- [ ] Terminal Disclaimer Form
- [ ] Additional sheets containing statements establishing unintentional delay
- [X] Other: Request for Continued Examination

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

Attorney/Agent Information for 11/038736

Customer # 27500

Attorney/Agent Name	Attorney/Agent Registration Number	Attorney/Agent Telephone Number
SIRILLA, GEORGE	18221 (Attorney)	(703)770-7784
ZAITLEN, RICHARD	27248 (Attorney)	(213)488-7568
WISE, ROGER	31204 (Attorney)	(213)488-7100
WETHERELL, JOHN	31678 (Attorney)	(858)509-4022
JAFFER, DAVID	32243 (Attorney)	(650)233-4510
GATTO, JAMES	32694 (Attorney)	(703)770-7754
JAKOPIN, DAVID	32995 (Attorney)	(650)233-4790
BARUFKA, JACK	37087 (Attorney)	(703)770-7712
ATKINS, WILLIAM	38821 (Attorney)	(703)770-7900
DANIELSON, MARK	40580 (Attorney)	(650)233-4777
CAWLEY, THOMAS	40944 (Attorney)	(703)770-7944
HESS, ADAM	41835 (Attorney)	(703)770-7789
HOFFMAN, JEAN-PAUL	42663 (Attorney)	(703)770-7794
TOERING, RICK	43195 (Attorney)	(703)770-7620
BEDGOOD, ROBERT	43488 (Attorney)	(858)509-4065
BLAYLOCK, RICHARD	43503 (Attorney)	(619)234-5000
COLLINS, BRYAN	43560 (Attorney)	(703)905-2038
HERNANDEZ, ERIC	47641 (Attorney)	(703)905-2088
FINKEL, EVAN	49059 (Attorney)	(213)488-7307
PERDUE, DONNA	51166 (Attorney)	(858)509-4093
MEHOK, MICHELLE	53314 (Attorney)	(858)509-4071
SMYTH, ANTHONY	55636 (Attorney)	(619)234-5000

Appln Info | Contents | Petition Info | Atty/Agent Info | Continuity/Reexam | Foreign Data

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Correspondence Address for 11/038736

Customer Number	Contact Information	Address
27500 Delivery Mode: Paper	Telephone: (703)770-7900 Fax: (703)770-7901 E-Mail: No E-Mail Address	PILLSBURY WINTHROP SHAW PITTMAN LLP ATTENTION: DOCKETING DEPARTMENT P.O BOX 10500 McLean VA 22102

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RAM Fee History Query

Revenue Accounting and Management

Name/Number: 11038736 Total Records Found: 12

Start Date: Any Date End Date: Any Date

Accounting Date	Sequence Num.	Fee Type	Fee Code	Fee Amount	Mailroom Date	Payment Method
06/30/2008	00007960	4	2453	$770.00	06/27/2008	DA 033975
06/30/2008	00007961	4	2801	$405.00	06/27/2008	DA 033975
07/09/2007	00004646	4	2202	$300.00	07/06/2007	DA 033975
06/01/2007	00004463	4	8021	$40.00	05/31/2007	DA 061050
07/11/2005	00000021	1	2051	$65.00	07/08/2005	CK
06/03/2005	00000006	1	2051	$65.00	05/31/2005	CK
06/03/2005	00000021	1	8021	$40.00	06/02/2005	CK
06/03/2005	00000005	1	2251	$60.00	05/31/2005	DA 500639
01/27/2005	00000066	1	2011	$150.00	01/18/2005	CK
01/27/2005	00000067	1	2111	$250.00	01/18/2005	CK
01/27/2005	00000068	1	2311	$100.00	01/18/2005	CK
01/27/2005	00000069	1	2202	$175.00	01/18/2005	CK

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INGRASSIA FISHER & LORENZ, P.C.
7010 E. COCHISE ROAD
SCOTTSDALE, AZ 85253

Mail Date: 04/20/2010

Applicant	: Brett J. Thompsen	: DECISION ON REQUEST FOR
Patent Number	: 7638995	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,746	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **487** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MARTIN CONNAUGHTON
ASHLAND INC.
P.O. BOX 2219
COLUMBUS, OH 43216

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OFFICE OF PETITIONS

In re Application of :
Benjamin R. Hazen :
Application No. 11/038,749 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 5934 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 17, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 12, 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 13, 2007.

The power of attorney filed with the petition on December is not accepted. In order for an assignee to take action in a case before the Office, compliance with 37 CFR 3.73(b) must be satisfied. More specifically, 37 CFR 3.73(b) provides that: (1) when an assignee seeks to take action in a matter before the Office, the assignee must establish its ownership of the property to the satisfaction of the Commissioner; (2) ownership is established by submitting to the Office, in the Office file related to the matter in which action is sought to be taken, documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment submitted for recording) or by specifying (e.g., reel and frame number) where such evidence is recorded in the Office; (3) the submission establishing ownership must be signed by a party authorized to act on behalf of the assignee; and (4) documents submitted to establish ownership may be required to be recorded as a condition to permitting the assignee to take action in a matter pending before the Office. A blank 37 CFR 3.73(b) accompanies this decision.

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

This matter is being referred to Technology Center AU 1711 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Jerry K. Mueller Jr.
Mueller Smith & Matto LPA
7700 Rivers Edge Drive
Columbus, OH 43235-1355

Attachment: blank 37 CFR 3.73(b).

PTO/SB/96 (01-08)
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STATEMENT UNDER 37 CFR 3.73(b)

Applicant/Patent Owner: _____

Application No./Patent No.: _____ Filed/Issue Date: _____

Entitled:

_____, a _____
(Name of Assignee) (Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☐ the assignee of the entire right, title, and interest; or

2. ☐ an assignee of less than the entire right, title and interest
(The extent (by percentage) of its ownership interest is_____ %)

in the patent application/patent identified above by virtue of either:

A. ☐ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel _____, Frame _____, or for which a copy thereof is attached.

OR

B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as follows:

1. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

2. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

3. From: _____ To: _____
The document was recorded in the United States Patent and Trademark Office at
Reel _____, Frame _____, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

☐ As required by 37 CFR 3.73(b)(1)(i), 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 37 CFR 3.11.

[NOTE: A separate copy (*i.e.*, a true copy of the original assignment document(s)) must be submitted to Assignment Division in accordance with 37 CFR Part 3, to record the assignment in the records of the USPTO. See MPEP 302.08]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

_____ _____
Signature Date

_____ _____
Printed or Typed Name Telephone Number

_____
Title

This collection of information is required by 37 CFR 3.73(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 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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

Privacy Act Statement

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

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

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

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OFFICE OF PETITIONS

ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON TX 77006

In re Application of :
Goldknopf, et al. :
Application No. 11/038,753 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. PROT-P007US : 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 26, 2006.

The request is **APPROVED**.

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

The request was signed by Elizabeth R. Hall, on behalf of all the attorneys associated with the Customer No. 34453.

All attorneys/agents associated with the Customer Number 34453 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 Ira Goldknopf at the address indicated below.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Ira L. Goldknopf
42 Brushwood Court
The Woodlands, TX 77380

cc: Power3 Medical Products, Inc.
3400 Research Forest Drive
Suite B2-3
The Woodlands, TX 77381

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
11/038,753	01/19/2005	Ira L. Goldknopf	PROT-P007US

CONFIRMATION NO. 9418

OC000000020402891
OC000000020402891

34453
ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON, TX 77006

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON TX 77006

In re Application of	:	
Goldknopf, et al.	:	
Application No. 11/038,754	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. PROT-P012US	:	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 26, 2006.

The request is **APPROVED**.

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

The request was signed by Elizabeth R. Hall, on behalf of all the attorneys associated with the Customer No. 34453.

All attorneys/agents associated with the Customer Number 34453 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 Ira Goldknopf at the address indicated below.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Ira L. Goldknopf
42 Brushwood Court
The Woodlands, TX 77380

cc: Power3 Medical Products, Inc.
3400 Research Forest Drive
Suite B2-3
The Woodlands, TX 77381

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
11/038,754	01/19/2005	Ira L. Goldknopf	PROT-P0012US

CONFIRMATION NO. 9400

34453
ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON, TX 77006

OC000000020403095
OC000000020403095

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

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

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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SMITH, GAMBRELL & RUSSELL
SUITE 3100, PROMENADE II
1230 PEACHTREE STREET, N.E.
ATLANTA GA 30307-3592

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OCT 0 2 2006
OFFICE OF PETITIONS

In re Application of

Richard Brown :

Application No. 11/038,760

: DECISION ON PETITION

Filed: January 19, 2005

:

Attorney Docket No. 045681.002

This is a decision on the petition under 37 CFR 1.137(b), filed May 19, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed July 26, 2005, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on October 27, 2005. A Notice of Abandonment was mailed on March 17, 2006.

The amendment filed May 19, 2006, is noted.

The application is being forwarded to Technology Center 3600, GAU 3673 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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Eugene R. Montalvo
Shell Oil Company
Legal - Intellectual Property
P. O. Box 2463
Houston TX 77252-2463

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DEC 22 2008

In re Application of :
Best et al. :
Application No. 11/038,762 : DECISION
Filed: January 19, 2005 : ON PETITION
Attorney Docket No. TS6356(US):

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed August 4, 2008.

The petition is **DISMISSED**.

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

The above-identified application became abandoned for failure to timely file a response to the final Office action mailed December 20, 2007. The Office action set a three (3) month shortened statutory period for reply, with extensions of time pursuant to 37 CFR 1.136(a) obtainable. No reply was received and no extension of time was obtained. Accordingly, the above-identified application became abandoned on March 21, 2008. A courtesy Notice of Abandonment was mailed on July 24, 2008.

In response, applicants timely filed this petition. The petition includes the required response in the form of an amendment and payment of the petition fee. The examiner has

verified that the amendment is sufficient for purposes of revival. Petitioner maintains that the delay in filing a reply was unavoidable as the Office action was not received at the correspondence address of record.

A grantable petition under § 1.137(a) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 C.F.R. § 1.17(l); (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and (4) any terminal disclaimer (and fee as set forth in §1.20(d)) required pursuant to § 1.137(d). No terminal disclaimer is required. The instant petition fails to meet requirement (3).

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' ... is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.

In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(*quoting* Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 U.S.P.Q. 666, 167-68 (D.D.C. 1963), aff'd, 143 U.S.P.Q. 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith, 671 F.2d at 538, 213 U.S.P.Q. at 982. Nonetheless, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines, 673 F. Supp. at 316-17, 5 U.S.P.Q.2d at 1131-32.

A review of the application file reveals no irregularities in the mailing of the restriction requirement. Thus, there is a strong presumption that the correspondence was properly mailed to the applicants at the correspondence address of record. As stated in MPEP 711.03(c):

> The showing required to establish 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's showing of non-receipt is not adequate. Petitioner submits the declarations of Marcella D. Watkins, attorney of record, and Tammy Alexander, docketing paralegal. The showing includes a statement by the practitioner that the Notice was not received. However, neither the practitioner nor the paralegal explicitly assert that a search of the file jacket and docket records indicates that the communication was not received. More

importantly, the petition does not include as required a master docket record showing where the non-received Office communication would have been entered had it been received and docketed. The requirement to meet non-receipt as set forth above is not met.

Having not made an adequate showing of non-receipt of the Office action, the petition cannot be granted under §1.137(a). On renewed petition, applicants may submit the showing of non-receipt.

In the alternative, while the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable, petitioner is not precluded from obtaining relief by filing a request for reconsideration pursuant to 37 CFR § 1.137(b) on the basis of unintentional delay. A grantable petition under § 1.137(b) must be accompanied by: (1) the reply required to the outstanding Office action or notice, unless previously filed; (2) the petition fee set forth in 37 CFR §1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to § 1.137(d).

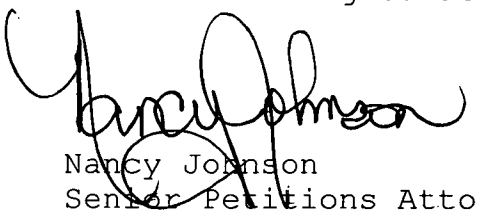
Further correspondence with respect to this matter should be addressed as follows:

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

By FAX: (571) 273-8300
ATTN: NANCY JOHNSON
SENIOR PETITIONS ATTORNEY

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) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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Eugene R. Montalvo
Shell Oil Company
Legal - Intellectual Property
P. O. Box 2463
Houston TX 77252-2463

MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of :
Best et al. :
Application No. 11/038,762 : DECISION
Filed: January 19, 2005 : ON PETITION
Attorney Docket No. TS6356(US):

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed January 12, 2009.

The petition is **GRANTED**.

The above-identified application became abandoned effective March 21, 2008 for failure to timely file a response to the final Office action mailed December 20, 2007. A courtesy Notice of Abandonment was mailed on July 24, 2008. By decision mailed December 22, 2008, a prior PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNAVOIDABLY UNDER 37 CFR 1.137(a) filed August 4, 2008 was dismissed. The petition did not include the showing of nonreceipt required to satisfy the alleged unavoidable delay based on nonreceipt of the Office action.

In response, this petition based on the lesser standard of unintentional delay was promptly filed. Petitioner previously submitted the required response in the form of an amendment on petition filed August 4, 2008. This petition includes payment of the petition fee for revival based on unintentional delay and the required statement of unintentional delay. No terminal disclaimer is required to revive this application.

All requirements for revival pursuant to 37 CFR 1.137(b) have been met.

Technology Center AU 3676 has been advised of this decision. The application is, thereby, forwarded to the examiner for consideration of the reply submitted on initial petition filed August 4, 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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Robert A. Voigt, Jr.
WINSTEAD SECHREST & MINICK PC
PO BOX 50784
DALLAS TX 75201

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DEC 13 2007

OFFICE OF PETITIONS

Applicant: Cromer et al.
Appl. No.: 11/038,811
Filing Date: January 19, 2005
Title: ENABLING A CLIENT DEVICE IN A CLIENT DEVICE/DATA CENTER ENVIRONMENT TO RESUME FROM A SLEEP STATE MORE QUICKLY
Attorney Docket No.: AUS920040256US1
Pub. No.: 2006/0161796 A1
Pub. Date: July 20, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on December 13, 2006, for the above-identified application.

The request is dismissed.

Applicant requests that the application be republished because the patent application publication contains a material error in that the publication includes incorrect claims.

37 CFR 1.221 (b) is applicable "only when the Office makes a material mistake which is apparent from Office records.... Any request for a corrected publication or revised patent application publication other than provided as provided in paragraph (a) of this section must be filed **within two months** from the date of the patent application publication. **This period is not extendable**." A material mistake must affect the public's ability to appreciate the technical disclosure of the patent application publication, to determine the scope of the patent application publication, or to determine the scope of the provisional rights that an applicant may seek to enforce upon issuance of a patent. [1]

The request for corrected publication, received on December 13, 2006, was not timely filed under 37 CFR 1.221(b).

It would greatly benefit the Office if **applicant did not provide copies of papers**, which were previously submitted, and/or **complete copies of the pre-grant publication**, 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

[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).

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

The amendment received by the Office on February 17, 2006, which was improperly scanned into this application and published has been removed from the application file.

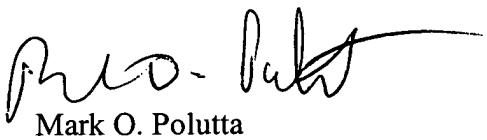
The applicant is advised that a "request for republication of an application previously published" may be filed under 37 CFR 1.221(a). Such a request for republication "must include a copy of the application compliance with the Office's electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)." If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

Any request for republication under 37 CFR 1.221(a), must be submitted via the EFS system, as a "Pre-Grant Publication" and questions or request for reconsideration of the decision, should be addressed as follows:

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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RAYTHEON COMPANY
Patent Docket Administration
2000 E. El Segundo Boulevard
P.O. Box 902 (EO/EO4/N119)
El Segundo, CA 90245-0902

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MAR 17 2006

OFFICE OF PETITIONS

In re Application of :
Horslund, et al. : DECISION ON PETITION
Application No. 11/038,821 :
Filed: January 19, 2005 :
Docket No.: PD-04W027 :

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed February 27, 2006.

This application was held abandoned October 1, 2005 for failure to timely submit a proper reply to the non-final Office action mailed June 30, 2005. Notice of Abandonment was mailed February 13, 2006.

Petitioners assert that a response to the non-final Office action was timely submitted on August 31, 2005 and have submitted as proof of USPTO receipt of the reply a return postcard dated stamped August 31, 2005.

The original amendment submitted August 31, 2005 has not been located. However, in view of the evidence presented, the petition to withdraw the holding of abandonment is hereby **GRANTED**.

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

The application file is being forwarded to Technology Center 3600 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

COPY MAILED
JAN 22 2010

In re Application of	:	
Jinwan Ye	:	
Application No. 11/038,831	:	ON PETITION
Filed: January 18, 2005	:	
Attorney Docket No. 15161 B (SW-971119)	:	

This is a decision on the petitions filed July 24, 2009, which are being treated as (1) a petition to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b), and (2) a request to amend the inventive entity by the addition of David Swain and Edward Giordano under 37 CFR 1.48(a). This is also a notice regarding your request, filed October 2, 2009, for acceptance of a fee deficiency submission under 37 CFR 1.28.

The petition to revive the above identified application is **GRANTED**.

The request to amend the inventive entity is **DISMISSED**.

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

Revival under 37 CFR 1.137(b)

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 20, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 21, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620.00; and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required

by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Furthermore, 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.

Amend the inventive entity under 37 CFR 1.48(a)

37 CFR 1.48(a) requires that an amendment to the named inventive entity be accompanied by:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
>
> (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
>
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
>
> (4) The processing fee set forth in § 1.17(i); and
>
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b)).

The request under 37 CFR 1.48(a) lacks compliance with item (5).

The request does not have the written consent of either assignee for the amendment. That is, the consent of both assignees of record, Xiamen Runner Industrial Corporation (Xiamen) and Paragon Water Systems (Paragon), must be provided. Absent such written consent, the request cannot be granted.

Also, a revocation and power of attorney was filed July 24, 2009 by a representative of Xiamen. However, the assignment to Paragon (reel/frame 023004/0932) transferred a portion of Xiamen's right, title and interest in the above-identified application from Xiamen to Paragon. Moreover, neither of the inventors to be added assigned their interests to Xiamen under reel/frame 016352/0814 as was cited to establish Xiamen's entire right, title and interest in the above-

identified application. The record is not clear that Xiamen has the entire right, title and interest in the above-identified application.

Only the owner of the *entire* right, title and interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16 USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195 USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison,* 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (*e.g.*, 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* right, title and interest in the application or patent. *See Goldstein*, 16 USPQ2d at 1964. Nonetheless, papers revoking a power of attorney in an application (or giving a power of attorney) will be accepted by the Office when signed by less than all of the applicants or owners of the application when they are accompanied by a petition under 37 CFR 1.36(a) and fee under 37 CFR 1.17(f) with a showing of sufficient cause (if revocation), or a petition under 37 CFR 1.183 and fee under 37 CFR 1.17(f) (if appointment) demonstrating the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney. *See* MPEP 402.10.

Here, the revocation and power of attorney does not provide a showing of sufficient cause or an explanation of the extraordinary situation where justice requires waiver of the requirement of 37 CFR 1.32(b)(4) that the applicant, or the assignee of the entire interest of the applicant sign the power of attorney

Further, if the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Fee deficiency submission under 37 CFR 1.28

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done. This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate. The erroneously filed Request for a Refund is recognized as moot.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the amendment submitted with the petition filed July 24, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Greer, Burns & Crain, LTD.
Attn: Christopher S. Hermanson
300 South Wacker Drive, 25th floor
Chicago, Illinois 60606

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OFFICE OF PETITIONS

CHARLES E. BAXLEY, ESQUIRE
90 JOHN STREET
SUITE 309
NEW YORK NY 10038

In re Application of
Ye, Jinwan
Application No. 11/038,831
Filed: January 18, 2005
Attorney Docket No. **15161 B (SW-971119)**

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 26, 2010.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because there is no indication that acts (1) thru (3) noted in the above-identified certifications have been performed. See PTO/SB/83 (11-08).

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

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

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **ATTENTION: ADAMS SHEN, ESQUIRE**
SHINHWA INTERNATIONAL
INTELLECTUAL PROPERTY SERVICE CO., LTD.
1F, NO. 8, LANE 12, CHUNGSHAN 11TH STREET
TAINANAN 701, TAIWAN, R.O.C.

cc: **ATTENTION: CHRISTOPHER S. HERMANSON, ESQUIRE**
GREER, BURNS & CRAIN, LTD.
300 SOUTH WACKER DRIVE – 25TH FLOOR
CHICAGO IL 60606

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OFFICE OF PETITIONS

In re Application of :
Jinwan Ye et al. :
Application No. 11/038,831 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 15161 B (SW-971119) :

This is a decision on the renewed request under 37 CFR 1.48(a), filed April 29, 2010, to correct the inventorship in the above-referenced application.

The petition is **GRANTED**.

In view of the papers filed April 29, 2010, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed from Jinwan Ye, as the sole inventor, to Jinwan Ye, David Swain and Edward Giordano.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

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LOS ANGELES, CA 90025-1030

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OFFICE OF PETITIONS

In re Application of :
Hee-bok Kang et al :
Application No. 11/038,861 : DECISION GRANTING PETITION
Filed: January 18, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 51876P794 :

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 February 21, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2824 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\FHicks\My Documents\470\Mar10\038861.wpd

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

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LOUIS J. WILLE
BRISTOL-MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P O BOX 4000
PRINCETON NJ 08543-4000

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OFFICE OF PETITIONS

In re Patent No. 7,470,712
Issued: December 30, 2008
Application No. 11/038,862
Filed: January 19, 2005
Attorney Docket No. 10013USNP

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT PERIOD IN GRANTED PATENT UNDER 37 C.F.R..§§ 1.181 & 1.705(d) " filed January 7, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from five hundred eight (508) days to eight hundred fifty-four (854) days.

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

On December 30, 2008, the above-identified application matured into US Patent No. 7,470,712 with a patent term adjustment of 508 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 854 days, which is the sum of 346 days of patent term adjustment due to exceeding three year pendency and 509 days due to USPTO delay in prosecution."

The 346-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 19, 2005, and the patent having been issued on December 30, 2008, three years and 346 days later. Patentees assert that in addition to this 346-day period, they are entitled to a period of adjustment due to examination

delay pursuant to 37 CFR 1.702(a), of 509 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 66 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 (346 days) and the period of Examination Delay (509 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 854 days, which is the sum of the period of Three Year Delay (346 days) and the period of Examination Delay (509 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 854 days (346 + 509 reduced by 0 overlap – 1 (applicant delay)).

The Office agrees that as of the issuance of the patent on December 30, 2008, the application was pending three years and 346 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 509 days is correct. At issue is whether patentees should accrue 346 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 509 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 346 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 19, 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 19, 2005, to the date the patent issued on December 30, 2008. Prior to the issuance of the patent, 509 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 346 days for Office delay in issuing the patent overlap with the 509 days of Office delay. During that time, the issuance of the patent was delayed by 509 days, not 509 + 346 days. The Office took 14 months and 509 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 509 days of Office delay and the 1 day 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).

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 346 days. The Office did not delay 509 days and then an additional 346 days. Accordingly, 509 days of patent term adjustment (not 509 and 346 days) was properly entered since the period of delay of 346 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 509 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 509 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 346 days over three years to the issuance of the patent.

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

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

Patentees remain under a duty to disclose to the Office entry of additional patent term adjustment that is not warranted.

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

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

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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 04/20/2010

Applicant	: Naoto Tsuji	: DECISION ON REQUEST FOR
Patent Number	: 7641761	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,888	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **518** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

Mail Date: 05/17/2010

Applicant : Naoto Tsuji
Patent Number : 7641761
Issue Date : 01/05/2010
Application No: 11/038,888
Filed : 01/20/2005

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

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20090909

DATE : September 09, 2009

TO SPE OF : ART UNIT 2816

SUBJECT : Request for Certificate of Correction on Patent No.: 7,521,975

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:

Applicant's request for correction in the Certification of Correction is incorrect. The correction should be as folllows:

Column 6, line 40, (claim 1), replace "the first and second power supply nodes" with --a first and second power supply nodes--.

Column 6, line 48, (claim 3), replace "to a first" with --to the first--;
Column 6, line 51, (claim 3), replace "to a second" with --to the second--.

/Lincoln Donovan/
Supervisory Patent Examiner, Art Unit 2816

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OFFICE OF PETITIONS

In re Application of :
Johnson, et al. :
Application No. 11/038,928 : DECISION REFUSING STATUS
Filed: January 18, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 000331-853 :

This is in response to the petition under 37 CFR 1.47(a), filed April 22, 2005.

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

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

The above-identified application was filed on January 18, 2005, without an executed oath or declaration. Accordingly, on March 10, 2005, the Initial Patent Examination Division mailed applicant a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply.

In reply, applicant filed the instant petition on April 22, 2005, and paid the surcharge for late filing of the declaration. Accompanying the petition was a declaration executed by joint inventors Michael P.

Johnson and Robert A. Bramble, but with the signature block for joint inventor Michael S. Andrews left blank.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached after diligent effort or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, drawings, oath or declaration); (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. Rule 47 applicant has not met requirement (1) above.

Here, applicant has not demonstrated diligent effort in finding the non-signing inventor. With respect to showing diligent effort, "an affidavit or declaration of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made."[1] Here, Rule 47 applicant states that a copy of the application papers was forwarded to the last known address of Andrews, but was returned by the U.S. Postal Service because it was undeliverable. Knowing that Andrews is no longer at that residence, Rule 47 applicant has not provided any information of the steps taken to subsequently locate him. Applicant has provided no documentary evidence, such as a copy of an internet search, to support such a finding[2].

The $130 fee for late filing of the declaration and the $200 fee for a petition pursuant to 37 CFR 1.47 have been charged to Deposit Account No. 14-1325, as authorized.

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

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

By FAX: (703) 872-9306
Attn: Office of Petitions

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

Cliff Congo
Petitions Attorney
Office of Petitions

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[1] MPEP 409.03(d) (emphasis added).

[2] Such documentary evidence should be made part of the affidavit or declaration. See id.

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Johnson, et al.	:	
Application No. 11/038,928	:	DECISION ACCORDING STATUS
Filed: January 18, 2005	:	UNDER 37 CFR 1.47(a)
Attorney Docket No. 000331-853	:	

This is in response to the renewed petition under 37 CFR 1.47(a), filed August 1, 2005.

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

The above-identified application was filed on January 18, 2005, without an executed oath or declaration. Accordingly, on March 10, 2005, the Initial Patent Examination Division mailed applicant a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration together with a surcharge for its late filing. This Notice set a two month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on April 22, 2005, and paid the surcharge for late filing of the declaration. Accompanying the petition was a declaration executed by joint inventors Michael P. Johnson and Robert A. Bramble, but with the signature block for joint inventor Michael S. Andrews left blank. However, the petition was dismissed in a decision mailed on July 7, 2005. Rule 47 applicant did not demonstrate diligent effort in attempting to locate Andrews.

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

The instant petition has been reviewed and determined to be in compliance with 37 CFR 1.47(a). The declaration filed on April 22, 2005 has been determined to be in compliance with 37 CFR 1.63. Accordingly, the above-identified application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The application file is being forwarded to Group Art Unit 2817 for 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

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MICHAEL S ANDREWS
2060 LEMON AVE
ESCONDIDO CA 92029

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SEP 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Michael P. Johnson, Michael S. Andrews, Robert A. Bramble :
Application No. 11/038,928 :
Filed: January 18, 2005 :
Title: Method for Making Transparent Polythiourethane Substrates in Particular Optical Substrates

LETTER

Dear Mr. Andrews:

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
Petitions Attorney
Office of Petitions

Noel F. Heal
Patti & Brill
One N Lasalle St 4th Floor
Chicago IL 60602

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

RECEIVED

JAN 05 2009

OFFICE OF PETITIONS

In re Application of :
TRUCKAI, Csaba et al. :
Application No. 11/038,930 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. **021447-002010US** : 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 05, 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 James M. Heslin on behalf of all attorneys of record who are associated with customer No. 20350. 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 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.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **CSABA TRUCKAI**
19566 ARDEN COURT
SARATOGA, CA 95070

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

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

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Truckai et al.	:	ON PETITION
Patent Number: 7,632,269	:	FOR RECONSIDERATION OF
Issue Date: 12/15/2009	:	PATENT TERM ADJUSTMENT
Application No. 11/038930	:	and
Filing or 371(c) Date: 01/18/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: END6510USNP	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on January 22, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty-three (1233) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand two hundred thirty-three (1233) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand two hundred thirty-three (1233) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,632,269 B2

DATED : **December 15, 2009**

INVENTOR(S) : Truckai 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 661 days.

Delete the phrase "by 661 days" and insert – by 1233 days--

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CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of :

WACKER, Carl E. :
Application No. 11/038,945 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. **1981/726** : 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 19, 2007.

The request is **APPROVED.**

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

The request was signed by John G. Rauch on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed May 17, 2007 that requires a reply from the applicant.

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

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **CARL E. WACKER**
3255 WEST HAMLIN
ROCHESTER HILLS, MI 48371

cc: **JERRY L. MAHURIN – THE GATES CORPORATION**
1551 WEWATTA STREET, IP LAW DEPT 10-A3
DENVER, CO 80202

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OFFICE OF PETITIONS

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

In re Application of	:	
Curtis Parvin et al.	:	
Application No. 11/038,957	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. 02558C-065413US	:	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 23, 2005.

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

A review of the file record indicates that the power of attorney to the attorneys and/or agents associated with Customer No. 20350 has been revoked by the assignee of the patent application on January 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Stinson Morrison Hecker LLP**
Attn: Patent Group
1201 Walnut Street, Suite 2800
Kansas City, MO 64106-2150

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STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY MO 64106-2150

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NOV 27 2007

OFFICE OF PETITIONS

In re Application of :
Curtis Parvin et al :
Application No. 11/038,957 : DECISION ON PETITION
Filed: January 19, 2005 :
Attorney Docket No. :
02558C-065413US

This is a decision on the petition under 37 CFR 1.137(b), filed September 26, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 25, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed June 25, 2007. Accordingly, the date of abandonment of this application is September 26, 2007. A Notice of Abandonment was mailed on October 4, 2007, subsequent to the filing of the present petition to revive.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,400 and the publication fee of $300, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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MICHAEL BEST & FRIEDRICH LLP
100 EAST WISCONSIN AVE
SUITE 3300
MILWAUKEE, WI 53202-4108

Mail Date: 04/21/2010

Applicant	: James F. Wiemeyer	: DECISION ON REQUEST FOR
Patent Number	: 7639117	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,967	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **454** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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WILMINGTON DE 19808

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MAR 13 2006

OFFICE OF PETITIONS

In re Application of
Pance et al.
Application No. 11/038,977
Filed: February 9, 2006
Title of Invention: Dielectric Resonator with Variable Diameter Through Hole and Circuit with Such Dielectric Resonators

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed February 9, 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 Corrected Application Papers which was mailed on March 31, 2005. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 1, 2005. A Notice of Abandonment was mailed on December 7, 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 (2). The petition fee in the amount of $1500.00 is a prerequisite to treatment of the petition. The merits of the petition will only be considered after the submission of the full petition fee. The deposit account on record does not appear to be affiliated with petitioner.

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 Randolph Building Customer Window, Mail Stop Petition 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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WILMINGTON DE 19808

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MAY 11 2006
OFFICE OF PETITIONS

In re Application of
Pance et al.
Application No. 11/038,977
Filed: February 9, 2006
Title of Invention: Dielectric Resonator with Variable Diameter Through Hole and Circuit with Such Dielectric Resonators

DECISION ON PETITION

This is a decision on the renewed petition under 37 CFR §1.137(b), filed April 12, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to file a response to a Notice to File Corrected Application Papers which was mailed on March 31, 2005. The Notice to File Corrected Application Papers set an extendable two (2) month period for reply. No timely request for extension of time was obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on June 1, 2005. A Notice of Abandonment was mailed on December 7, 2005. A petition filed under 37 CFR 1.137(b) was dismissed on March 10, 2006.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required 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 present petition was ever given a

power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the present petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted.

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

Petitions Attorney

Office of Petitions

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MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/20/2010

Applicant	: Shannon Pahl	: DECISION ON REQUEST FOR
Patent Number	: 7590931	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/038,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **309** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON TX 77006

In re Application of	:	
Goldknopf, et al.	:	
Application No. 11/039,005	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. PROT-P013US	:	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 26, 2006.

The request is **APPROVED**.

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

The request was signed by Elizabeth R. Hall on behalf of all attorneys of record who are associated with customer No. 34453.

All attorneys/agents associated with the Customer Number 34453 have been withdrawn.

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

All future correspondence will be directed to the first named inventor Ira L. Goldknopf at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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 January 24, 2006 that requires a reply from the 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: Ira L. Goldknopf
42 Brushwood Court
The Woodlands, TX 77380

cc: Power3 Medical Products, Inc.
3400 Research Forest Drive
Suite B2-3
The Woodlands, TX 77381

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/039,005	01/19/2005	Ira L. Goldknopf	PROT-P0013US

CONFIRMATION NO. 9811

34453
ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON, TX 77006

OC000000020403391
OC000000020403391

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

21 JUL 2005

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Christie, Parker & Hale, LLP
PO Box 7068
Pasadena, CA 91109-7068

In re Application of	:	
MUIR et al	:	
Application No.: 11/039,008	:	
Filing Date: January 11, 2005	:	DECISION
Atty. Docket No.: 54223/DBP/C664	:	
For: GAMING MACHINE POWER FAIL ENHANCEMENT	:	

This is a decision on applicants' "PETITION TO REVIVE UNDER 37 CFR 1.137(b)" filed in the U.S. Patent and Trademark Office (USPTO) on January 11, 2005, which requests that international application PCT/AU2003/000849 be revived for the purposes of continuity with the present application. The petition is **GRANTED** as discussed below.

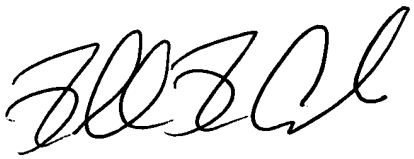
International application PCT/AU2003/000849 became abandoned as to the United States on January 03, 2005, for failure to pay the basic national fee.

On January 11, 2005, applicants filed the present application which was accompanied by, *inter alia*, the present petition and the requisite petition fee.

As a result of the identification of the International Application Number in the header of the petition, the petition and fee were mistakenly separated from the other application papers, the petition being assigned national stage application number 10/530,089 while the petition fee was charged to the international application number. This has been rectified; the petition and fees have been returned to the present application file and the '089 application number has been cancelled. All further correspondence should be directed to application no. **11/039,008**.

A review of the application reveals that all of the requirements for revival under 37 CFR 1.137(b) have been satisfied. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (see MPEP 711.03(c)). International application PCT/AU2003/000849 is being revived for the 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 number 11/039,008.

This application is being forwarded to Technology Center 3700 to await examination in due course.



Richard R. Cole
PCT Legal Examiner
Office of PCT Legal Administration

(571) 272-3281
Fax: (571) 273-0459

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Angenehm Law Firm Ltd.
P.O. Box 48755
Coon Rapids, MN 55448-0755

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OFFICE OF PETITIONS

In re Application of :
Paul Freidlund :
Application No. 11/039,031 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. F597-002-PAT : 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 10, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to N. Paul Friederichs and all attorneys/agents of record has been revoked by the assignee of the patent application on March 3, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sand & Sebolt
Aegis Tower, Suite 1100
4940 Munson Street, NW
Canton, OH 44718-3615

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : September 28,2007

TO SPE OF : ART UNIT 3751

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/039,033 Patent No.: 7237280 B1

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

GREGORY HUSON
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

SPE 10/4/07 Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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

AUSTIN RAPP & HARDMAN
170 South Main Street, Suite 735
SALT LAKE CITY, UT 84101

Mail Date: 05/28/2010

Applicant	: David A. Eatough	: DECISION ON REQUEST FOR
Patent Number	: 7624423	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/039,044	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Paper No: __

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OFFICE OF PETITIONS

SUTHERLAND ASBILL
& BRENNAN LLP
999 PEACHTREE STREET, N.E.
ATLANTA GA 30309

In re Application of :
Santini, et al. : DECISION
Application No.: 11/039,048 :
Filing Date: 19 January, 2005 :
Attorney Docket No. 17509-0101 :

This is a decision on the petition filed on 29 January, 2007, to correct inventorship to add the names of Chung Chang Young (M.r Young) and Robert S. Langer (Mr. Langer) under 37 C.F.R. §1.48, and for waiver of certain provisions of the regulation under 37 C.F.R. §1.183.

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

The petition under 37 C.F.R. §1.183 for waiver is **DISMISSED**, and the petition under 37 C.F.R. §1.48 is **DISMISSED**.

NOTES:

(1) Any petition (and fee) for reconsideration of this decision under 37 C.F.R. §1.183 must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.183";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that Petitioner Kevin King (Reg. No. 42,737) recites that:

- the instant application was filed on 19 January, 2005, as a continuing application of Application No. 10/324,556, now Patent No. 6,551,828 (the '838 patent) and therewith was included a copy of the original oath/declaration of the '838 patent naming John T. Santini, Jr. (Mr. Santini), Norman F. Sheppard, Jr. (Mr. Sheppard), Mr. Young and Mr. Langer as the inventive entity, and thereafter relief was sought and obtained to delete Messrs. Young and Langer from the inventive entity to conform to amendment that cancelled certain claims–though a terminal disclaimer was filed and entered to overcome a double-patenting rejection;

- Petitioner further avers, however, due to extensive amendment the work of Messrs. Young and Langer was reintroduced and their addition to the inventive entity is proper;

- the assignment by Messrs. Santini, Sheppard, Young and Langer of their interests in the instant application to Microchips Inc (the Assignee), and that assignment was filed of record at Reel/Frame 011709/0322 on 18 April, 2001;

- as indicated, the 29 January, 2007 petition seeks to add the names of Messrs. Young and Langer to the inventive entity, and Petitioner herein has represented that assignee concurs with and approves of the addition of Messrs. Young and Langer and that the prior deletion of their names was done in error without deceptive intent.

The regulations at 37 C.F.R. §1.48 require:

> (1) A request to correct the inventorship that sets forth the desired inventorship change;
> (2) A statement from each person being added/deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
> (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
> (4) The processing fee set forth in § 1.17(I); and
> (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see 37 C.F.R. § 3.73(b)).

Petitioner has satisfied requirements (1), (4) and (5) above, suggests that the provisions of item (3) could be satisfied with the reference to the oath/declaration as originally filed–a copy of which is submitted it is averred pursuant to 37 C.F.R. §1.63 executed by all of the inventors (to wit, Santini, Sheppard, Young and Langer) as required by 37 C.F.R. §1.48(c)(2). Petitioner has paid the processing fee. Finally, the petition includes a statement signed by Petitioner and averring that it would be too much of a burden for the Assignee to have to seek to contact Messrs. Young and Langer for their statements to satisfy item (2), above.

Thus, Petitioner has not submitted the required statement by Messrs. Young and Langer as required by 37 C.F.R. §1.48(c)(2). Moreover, Petitioner's own averment indicates clearly that the instant application is "substantially amended" during prosecution, and the members of the inventive entity a due an opportunity to review and sign as an entity.

In order for a petition under 37 C.F.R. §1.183 to be granted, Petitioner must demonstrate that this is an extraordinary situation where justice requires waiver of the rules.

Petitioner makes no showing whatsoever of any attempt to contact Messrs. Young and Langer and so to obtain their execution of a their statement indicating the error of their deletion/exclusion–notably, there is no statement, no copy of a transmittal letter forwarding to Messrs. Young and Langer a copy of the application as amended for their review and the statement of error and no deceptive intent for their execution. There is only Petitioner's averment of the "particularly onerous" nature of the requirement because Messrs. Young and Langer are no longer employed by Assignee.

Thus, there has been no showing of the required extraordinary situation where justice requires waiver..

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

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a

CONCLUSION

Because Petitioner has not satisfied the burdens set forth under the regulations, the petition for waiver under 37 C.F.R. §1.183 is **dismissed**, and the petition under 37 C.F.R. §1.48 is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:[2]

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

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practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;

(2) Returning papers;

(3) Precluding a party from filing a paper, or presenting or contesting an issue;

(4) Imposing a monetary sanction;

(5) Requiring a terminal disclaimer for the period of the delay; or

(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).

[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The old FAX number no longer is in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA GA 30309

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OCT 16 2007

OFFICE OF PETITIONS

In re Application of :
SANTINI, et al. :
Application No. 11/039,048 : DECISION GRANTING PETITION
Filed: January 19, 2005 : UNDER 37 CFR 1.313(c)(3)
Attorney Docket No. 17509-0101 :

This is a decision on the petition, filed October 10, 2007, under 37 CFR 1.313(c)(3) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

Petitioner requests that the above-identified application be withdrawn from issue for express abandonment in favor of a continuing application. *See* 37 CFR 1.313(c)(3).

The application is hereby withdrawn from issue, and the abandonment is hereby recognized.

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

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

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

In re Application of :
MATHEWS, et al. :
Application No. 11/039,065 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. 14522-003002 : 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 27, 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 the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **BEYER WEAVER & THOMAS, LLP**
P.O. BOX 70250
OAKLAND, CA 94612-0250

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United States Patent and Trademark Office
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EXXONMOBIL CHEMICAL COMPANY
5200 BAYWAY DRIVE
P.O. BOX 2149
BAYTOWN, TX 77522-2149

Mail Date: 05/10/2010

Applicant	: Patrick Brant	: DECISION ON REQUEST FOR
Patent Number	: 7655317	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/039,090	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **849** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/039,095	01/20/2005	Robert A. LaBrash	DH-020-US-01	9556

7590 05/22/2008

H.B. Fuller
Patent Department
1200 Willow Lake Blvd.
P.O. Box 64683
St. Paul, MN 55164-0683

EXAMINER	
QIAN, YUN	
ART UNIT	**PAPER NUMBER**
4162	
MAIL DATE	**DELIVERY MODE**
05/22/2008	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.

Nicole Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 05/22/2008 NFARMER
01/27/2005 HTECKLU1 00000073 062241 11039095
02 FC:1111 500.00 CR
04 FC:1201 200.00 CR

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

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OFFICE OF PETITIONS

In re Application of	:	
David S. Breed	:	
Application No. 11/039,129	:	DECISION GRANTING PETITION
Filed: January 19, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. AT1-341	:	

This is a decision on the petition, filed November 3, 3005, 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 11, 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) 272-3218.

This matter is being referred to Technology Center AU 3661 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and 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 Issue Fee Transmittal Form PTOL-85(b) (along with any balance due or the amount due at the time of payment), 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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GKN DRIVELINE NORTH AMERICA, INC
3300 UNIVERSITY DRIVE
AUBURN HILLS, MI 48326

Mail Date: 04/21/2010

Applicant	: Frederick J. Uchman	: DECISION ON REQUEST FOR
Patent Number	: 7611415	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **343** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Mail Date: 04/20/2010

Applicant	: Thomas A. Gentles	: DECISION ON REQUEST FOR
Patent Number	: 7593918	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,153	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **533** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Alexandria, VA 22313-1450
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BACHMAN & LAPOINTE, P.C. (P&W)
900 CHAPEL STREET
SUITE 1201
NEW HAVEN CT 06510-2802

11/25/09

In re Application of:
COSBY, STEVEN A. et al
Serial No.: 11/039,164
Filed: Jan. 19, 2005
Docket: PA-085.11304-US (05-416)
Title: CONVERGENT SPRAY NOZZLE APPARATUS

DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on November 16, 2009 to enter the amendment after final under 37 CFR 1.116. The petition is being considered pursuant to 37 CFR 1.181 and no fee therefore is required.

The petition is DISMISSED.

This application comes before the Technology Center Director for review of prosecution, in particular for review of the office letter (advisory action) of Oct. 23, 2009. Petitioner opines that the examiner's refusal to enter the amendment after final filed on October 14, 2009 was improper because the amendment in the preamble of the claims does not constitute a shift in claimed invention.

The record shows that:

1. On November 3, 2008, the examiner issued a restriction requirement among three independent or distinct inventions. In the restriction requirement, the examiner separated claims in three groups, namely, I. claims 1-16, drawn to a food preparation system; II. claims 17-24, drawn to a spray nozzle assembly and III. claims 25-31, drawn to a method of preparing food products,.
2. On November 20, 2008, the applicant filed a response to the restriction requirement. The applicant elected Group II invention with traverse, claims 17-24 for examination purposes.
3. On February 6, 2009, the examiner mailed a non-final Office action. In the non-final Office action, the examiner examined the elected claims 17-24 and held non-elected claims 1-16 and 25-31 withdrawn from consideration.

4. In response to the non-final Office action mailed February 6, 2009, the applicant filed an amendment on May 6, 2009.
5. On July 16, 2009, the examiner issued a final Office action. In the final Office action, the examiner rejected claims 17-24 and 32-35 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 17 recites "a supply of fluid" and "a supply of edible material." Claim 24 further recites "a supply of a binder." The preamble is directed to a "spray nozzle." The specification, in paragraphs 16-17, discloses the food preparation system 20 including spray nozzle assemblies 28, a supply 36 of fluid (air), a supply 32 of edible material and a supply 34 of binder. The preamble is directed to a subcombination of a spray nozzle assembly, but the body of the claims is directed to a combination of a spray nozzle assembly, supply of fluid, supply of edible material and supply of binder, i.e., the food preparation system 20.
6. In response, the applicant files a Rule 116 amendment on October 14, 2009 amending the preamble of the claims. For example, the amended claim 1 now reads "A system including a spray nozzle assembly' rather "A spray nozzle" per se.
7. On October 23, 2009, the examiner sent out an advisory action and informed the applicant that the Rule 116 amendment will not be entered because the applicant intends to switch the claim invention.
8. The present petition, filed on March 20, 2009 requests withdrawal of the finality of the Office action mailed on February 6, 2009.

Discussion and Analysis

In response to the amendment after final filed on October 14, 2009, the examiner indicated in the advisory action of October 23, 2009 that the Rule 116 amendment raises new issues that would require further consideration and/or search. In addition, the examiner also stated that the claims as amended in the Rule 116 amendment are also directed to a non-elected invention.

In the petition, petitioner stated that the change involves only in the preamble from "a spray nozzle assembly" to a "a system including a spray nozzle assembly" and to include in the body of the claim the subject matter of former claim 23, against which no art rejection had been made in the final rejection. Petitioner argues that the amendment to the preamble was in direct response to the examiner's comments in paragraph 4 of the Final Rejection. Petitioner then argues that the amendment to the preamble of claim 17 in the Rule 116 amendment adopts the examiner's position as set out in paragraph 4 of the Final Rejection in that the body of the claim is directed to a food preparation system.

A review of the Final Rejection shows that the rejection of claim 17 under 35 U.S.C. 112, second paragraph was made because of the conflict between the preamble of the claim, which was directed to a spray nozzle assembly, and the body of the claim, which was directed to a food preparation system. In the Rule 116 amendment, independent claim 17 was amended to affirmatively indicate that the preamble of claim 17 is being amended so that the preamble and the body of claim 17 are mutually directed to a food preparation system. This amended independent claim 17 does change the scope and would cause further search and consideration after a final rejection was mailed.

With regard to the amended claim 17, claim 17 is no longer drawn to the elected invention of Group II. Claim 17 would be drawn to the non-elected invention of Group I. By virtue of their dependency, all of the dependent claims would also be drawn to the non-elected invention of Group I. Such amendments are non-responsive and would require further consideration. Patent examiners are charged with giving the claims the broadest reasonable interpretation of the claim language in light of the supporting specification. The examiner has correctly found that the amendment to claim 17 would change the scope of the original claim 17. The Rule 116 amendment would present claims only directed to a non-elected invention. Entry of the Rule 116 amendment would result in reopening of prosecution and an issuance of a notice of non-responsive amendment based on the withdrawal of claims 17-22, 24 and 32-35 from consideration as being directed to a non-elected invention. It should be noted that entry of amendments after final rejection is not a matter of right (see 37 CFR 1.116). The review of the record shows that the examiner was in compliance with proper examining practice as set forth in MPEP 714.13 in refusing entry of the after final amendment submitted October 14, 2009. The examiner did not abuse his discretion or act in an arbitrary or capricious manner in denying entry of the proposed claims after final for the reasons stated. Therefore there is no basis for granting the relief requested.

Conclusion

For the foregoing reasons, the relief requested by petitioners will not be granted. Specifically, the examiner's refusal in admitting the amendment after final filed Sep. 28, 2006 is proper.

The application is being forwarded to SPE of Art Unit 3752 for further processing. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136 (a) is permitted. The mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181." Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Robert Olszewski, Director
Technology Center 3700

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/2/07

Paper No.: ——

TO SPE OF : ART UNIT 3676

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/039177 Patent No: 2174753 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: _____

_____

_____

_____

_____

Patricia Engle — 3673

SPE — **Art Unit**

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United States Patent and Trademark Office
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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
SUITE 1600
PORTLAND, OR 97204

Mail Date: 04/20/2010

Applicant	: Eric J. Esswein	: DECISION ON REQUEST FOR
Patent Number	: 7604997	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,178	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/18/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1307** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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JUN 29 2006

OFFICE OF PETITIONS

In re Application of	:	
Curtis Pravin, et al.	:	
Application No. 11/039,179	:	DECISION ON REQUEST
Filed: June 6, 2006	:	TO WITHDRAW
Attorney Docket No. 02558C-065411US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §1.36(b), filed December 23, 2005.

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

The request was signed by Gerald T. Gray on behalf of himself and all the other attorneys/agents of record associated with Customer No. 20350. However, a review of the file record indicates that the assignee of the patent application revoked all previous powers of attorney on January 24, 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: STINSON MORRISON HECKER LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY, MO 64106-2150

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David T. Bracken
The Law Office of David T. Bracken
4839 Bond Avenue
Orange CA 92869

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FEB 05 2007

OFFICE OF PETITIONS

In re Application of :
Rosen : DECISION ON PETITION
Application No. 11/039,180 :
Filed: January 19, 2005 :
For: 0208.2cA4 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 29, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Missing Parts of Provisional Application mailed March 7, 2005. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed September 20, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply 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 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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RUTAN & TUCKER, LLP
611 ANTON BLVD
SUITE 1400
COSTA MESA CA 92626

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In re Application of :
Douglas R. Johnson, et al. :
Application No. 11/039,186 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. 023016.0017US1 : 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 31, 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 practitioners have not certified that (1) he has given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) has delivered to his client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled; (3) notified the client of any responses that may be due and the time frame within which the applicant must response. However, if practitioner cannot make all of the certifications, an explanation detailing why the certification cannot be made and must be included with the Request. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

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

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JAN 30 2009

OFFICE OF PETITIONS

In re Application of :
Douglas R. Johnson, et al. :
Application No. 11/039,186 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. 023016.0017US1 : FROM RECORD
:

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 4, 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 practitioner(s) requesting the withdrawal have not certified that they have (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment; (2) deliver to the client or duly authorized representative of the client 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. The failure to do so may subject the practitioner to discipline.

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

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

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

Attachment: Blank copy of form PTO/SB/83

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

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DEC – 5 2006

TECHNOLOGY CENTER 2800

STOEL RIVES LLP
900 SW Fifth Avenue, Suite 2600
Portland, Oregon 97204-1268

In re Application of:
COLEY, James E.
Serial No.: 11/039,193
Filed: January 18, 2005
Attorney Docket No.: **51306/1006:1**

DECISION ON PETITION
UNDER 37 C.F.R. § 1.144

This is a decision on the Petition under 37 C.F.R. § 1.144, filed June 05, 2006, requesting withdrawal of the four-way restriction requirement set forth in the letter of October 31, 2005.

The request is **GRANTED**.

Petitioner asserts that the restriction requirement is in error, it is not apparent that there exist a four-way restriction requirement of Groups I-IV which are all directed to a barcode reading and processing thereof. Accordingly, the restriction requirement should be reversed.

For the above stated reason, the petition is granted.

The application file is being forwarded to the examiner of record for consideration of the response and prompt appropriate action.

Inquiries regarding this decision should be directed to Michael Lee, Supervisory Patent Examiner, at (571) 272-2398.

Janice A. Falcone, Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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Maartin Niestein, InFocus Corporation
27700 SW Parkway Avenue
Wilsonville, OR 97070

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Jeff Gohman et al.	:	
Application No. 11/039,198	:	DECISION ON PETITION
Filed: January 18, 2005	:	TO WITHDRAW
Attorney Docket No. 007.P004	:	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 10, 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 Michelle C. Craig and all attorneys/agents of record has been revoked by the assignee of the patent application on July 19, 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: Alleman Hall McCoy Russell & Tuttle LLP
806 SW Broadway
Suite 600
Portland, OR 97205-3335

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STEPHEN G. RUDISILL
JENKENS & GILCHRIST
A PROFESSIONAL CORPORATION
225 W. WASHINGTON
SUITE 2600
CHICAGO, IL 60606-3418

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FEB 04 2008

OFFICE OF PETITIONS

In re Application of :
Jacquelyn R. Simoni :
Application No. 11/039,210 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. 64682-00007USP1 : 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 20, 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 petitioner was not appointed by customer number 70001.

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: JACQUELYN R. SIMONI
1 S. 669 BIRCHBROOK COURT
GLEN ELLYN, IL 60137

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CHICAGO, IL 60606-3418

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OFFICE OF PETITIONS

In re Application of :
Jacquelyn R. Simoni :
Application No. 11/039,210 : DECISION ON PETITION
Filed: January 18, 2005 : TO WITHDRAW
Attorney Docket No. 64682-00007USP1 : 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 17, 2008.

The request is **APPROVED**.

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

The request was signed by Stephen G. Rudisill on behalf of all attorneys of record who are associated with this application.

All attorneys/agents associated with this application have been withdrawn..

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

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

There is an outstanding Office action mailed October 9, 2007 that requires a reply from the applicant.

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: JACQUELYN R. SIMONI
1 S. 669 BIRCHBROOK COURT
GLEN ELLYN, IL 60137

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/039,210	01/18/2005	Jacquelyn R. Simoni	64682-00007USP1

CONFIRMATION NO. 9667

POWER OF ATTORNEY NOTICE

Stephen G. Rudisill
JENKENS & GILCHRIST
A PROFESSIONAL CORPORATION
225 W. Washington, Ste. 2600
Chicago, IL 60606-3418

OC000000030707146

Date Mailed: 06/27/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/17/2008.

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

/amwise/

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

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CARSTENS & CAHOON, LLP
P O BOX 802334
DALLAS, TX 75380

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APR 27 2009

OFFICE OF PETITIONS

In re Application of :
Robert RICE, et al. :
Application No. 11/039,232 : DECISION ON PETITION TO
Filed: January 18, 2005 : WITHDRAW FROM RECORD
Attorney Docket No. **BWORL.0102** :

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 23, 2009.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others.

The request was signed by David W. Carstens 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 communications from the Office will be directed to the assignee of the entire interest WORLD WIDE NOTARY at the address below until otherwise properly notified by the applicant.

There is an outstanding non-final Office action mailed September 15, 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: **WORLD WIDE NOTARY**
1700 S. BRIDGE
BRADY, TX 76825

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OFFICE OF PETITIONS

NATTER & NATTER
501 FIFTH AVENUE
SUITE 808
NEW YORK NY 10017

In re Application of	:	
David H. FISHER	:	
Application No. 11/039,237	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. 04-4664-P	:	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 29, 2010.

The request is **APPROVED**.

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

The request was signed by Howard Natter, on behalf of the attorneys of record associated with Customer No. 28143.

The attorneys of record associated with Customer No. 28143 have been withdrawn.

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

The correspondence address for future communications from the Office has been changed and the new correspondence address is indicated below.

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

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: DAVID H. FISHER
VIA CAPO DI MONDO 25
FLORENCE 50136 ITALY

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/039,237	01/19/2005	David H. Fisher	04-4664-P

CONFIRMATION NO. 1216

POWER OF ATTORNEY NOTICE

28143
NATTER & NATTER
501 FIFTH AVENUE
SUITE 808
NEW YORK, NY 10017

Date Mailed: 06/21/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/29/2010.

- 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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THE INVENTORS NETWORK, INC.
332 ACADEMY STREET
CARNEGIE PA 15106

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FEB 14 2007

OFFICE OF PETITIONS

In re Application of :
Roger Nikolai :
Application No. 11/039,245 : DECISION GRANTING PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.137(b)
For: PORTABLE POWER TAKE-OFF UNIT :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 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 required claims fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice To File Missing Parts Of Nonprovisional Application of March 8, 2005, is accepted as having been unintentionally delayed.

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

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

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 05/06/2010

Applicant	: Junjiro Sugi	: DECISION ON REQUEST FOR
Patent Number	: 7630704	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/039,256	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **67** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DRW Mar-07

SUITER WEST SWANTZ PC LLO
14301 FNB PARKWAY
SUITE 220
OMAHA NE 68154

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OFFICE OF PETITIONS

In re Application of	:	
Bruce Warren Anderson	:	DECISION ON PETITION TO
Application No. 11/039,280	:	WITHDRAW HOLDING OF
Filed: 20 January, 2005	:	ABANDONMENT
Attorney Docket No. BWA 07-1-1	:	

This is a decision on reference to the papers filed on 7 November, 2006, which are treated as a petition to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 14 March, 2006, which set a three (3) month shortened statutory period for reply. A reply was filed on 21 July, 2006. On 8 September, 2006, a Notice Requiring Extension of Time Fee—No New Time Period is Provided was mailed, stating that the reply filed on 21 July, 2006, was not accompanied by a sufficient extension of time fee. On 14 September, 2006, a check for $460.00 was received. Notice of Abandonment was mailed on 17 October, 2006, stating that the extension of time fee was not accompanied by a proper response to the Office action.

Petitioner asserts that a reply to the Office action was in fact previously filed on 21 July, 2006. Upon review, the amendment filed on 21 July, 2006, has been located in the Office's Image File Wrapper system. As such, the papers filed on 21 July, 2006, and on 14 September, 2006, constituted a complete and timely response to the Office action mailed on 14 March, 2006.

Therefore, the showing of record is that a response was timely filed, and there is no abandonment in fact.

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

The application will be referred to Technology Center Art Unit 3652 for further processing.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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PERKINS COIE LLP
PO BOX 1247
SEATTLE WA 98111

Paper No.

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SEP 28 2009

OFFICE OF PETITIONS

In re Patent No. 7,481,937	:	
Rice et al.	:	DECISION DISMISSING
Application No. 11/039,287	:	REQUEST FOR
Issue Date: January 27, 2009	:	RECONSIDERATION OF
Filed: January 19, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
290513.121-US1	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(D), filed on March 27, 2009. Patentee requests that the determination of patent term adjustment be corrected from three hundred ninety-eight (398) days to seven hundred seventy-two (772) 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 398 days.

BACKGROUND

This application was filed on January 19, 2005. On September 22, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 398 days. On January 27, 2009, the application matured into U.S. Patent No. 7,481,937, with a revised patent term adjustment of 398 days. The Office determined that the 374 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) overlaps with the 556 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1) accorded prior to the issuance of the patent. As such, no additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 158 days, the patent issued with a revised patent term adjustment of 398 (556 - 158) days.

On March 27, 2009, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 772 days. Patentee asserts that a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B). Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 930 (556 + 374). Further, given the applicant delay of 158 days, patentee asserts entitlement to 772 (930 - 158) 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) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap

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

Further, as stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment 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), January 19, 2005, and ending on the date of issuance of the patent, January 27, 2009, (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 556 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), 374 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

The 374 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 556 days of patent term adjustment under 37 CFR 1.702(a). Entry of both the 556 days and the 374 days is neither permitted nor warranted. 556 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days of adjustment pursuant to § 1.702(b) for a total of the greater period of 556 days for Office delay.

CONCLUSION

In view thereof, the revised determination of patent term adjustment at the time of issuance of the patent remains 398 days.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood, at (571) 272-3231.

Alesia Brown /

Anthony Knight
Supervisor
Office of Petitions

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PERKINS COIE LLP
PATENT-SEA
P.O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Ronnie Lai	: DECISION ON REQUEST FOR
Patent Number	: 7652958	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,309	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1226** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 - 7 2005

LOTT & FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES, FL 33114-1098

In re application of : **DECISION ON PETITION**
Alan Waserstein et al. : **TO MAKE SPECIAL**
Application No. 11/039,322 : **(ACCELERATED**
Filed: January 19, 2005 : **EXAMINATION)**
For: ELECTRONIC CHECK

This is in response to the petition filed on January 19, 2005 to make the above-identified application special on the basis of special examining procedure for certain new applications - accelerated examination as set forth in MPEP § 708.02 VIII.

The requirements for granting special status under this section are: (A) a petition to make special accompanied by the fee set forth in 37 CFR 1.17(i); (B) all claims being directed to a single invention, or an election without traverse if the Office determines that all the claims are not directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

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

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

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

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

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

KJD/slb: 08/11/05

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LOTT& FRIEDLAND, P.A.
P.O. BOX 141098
CORAL GABLES, FL 33114-1098

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OFFICE OF PETITIONS

In re Application of	:	
Alan I. Waserstein et al	:	
Application No. 11/039,322	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. 23039.0010	:	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 11, 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. 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 3621 to await a reply to the final Office action mailed April 7, 2006.

Telephone inquires concerning this decision should be directed to Wan Laymon at 571-272-3220.

Amelia Au
Petitions Examiner
Office of Petitions

cc: BARNES & THORNBURG
750 - 17TH STREET NW
SUITE 900
WASHINGTON, DC 20006-4675

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OFFICE OF PETITIONS

GOLDSTEIN LAW OFFICES, P.C.
2071 CLOVE ROAD - 204
STATEN ISLAND, NY 10304

In re Application of
Muzammal Butt
Application No. 11/039,326
Filed: January 19, 2005
Attorney Docket No. 17081

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed March 14, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 3, 2006. The issue fee was paid on November 6, 2006. A Notice of Abandonment was mailed on November 29, 2006. In response, on March 14, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the requisite issue fee; (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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KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C.
489 FIFTH AVENUE
NEW YORK NY 10017

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OFFICE OF PETITIONS

In re Application of
Michael J. Smith
Application No. 11/039,343
Filed: January 19, 2005
Attorney Docket No. SMITH

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

Since this application was abandoned for failure to timely reply to the Final Rejection of September 21, 2006, within the extendible six month period provided therefor, the Examiner had no procedural authority with respect to the abandoned application. **See Lorenz v. Finkl**, 333 F.2d 885, 891, 142 USPQ 26, 30 (CCPA 1964). Therefore, the examiner was without authority to act further in the case absent a grantable petition reviving the application. Nevertheless, in view of this decision on petition, the RCE/amendment is now considered a proper filing and the actions of the examiner taken thereafter are hereby ratified.

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

This application is being referred to Technology Center AU 2859.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

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

In re Application of
Clarence Agustus Lewis
Application No. 11/039,352
Filed: January 20, 2005
Attorney Docket No. 3836.1000-001
Title of Invention: Multiple Motor position Control

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), filed June 9, 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 March 2, 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 May 3, 2005. A Notice of Abandonment was mailed on November 4, 2005.

The requirements for a grantable petition under 37 CFR §1.137(b) have been met. This petition is hereby **Granted**.

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

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

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530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

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OFFICE OF PETITIONS

In re Application of
Spevak, Currier, Syverson, and Francke
Application No.: 11/039,359
Filed: January 19, 2005
Attorney Docket No: 3128.1022-000
For: METHOD AND SYSTEM FOR MULTI-CHANNEL INK-JET PRINTING

: DECISION ACCORDING
: RULE 47(a) STATUS

This is in response to the petition under 37 CFR 1.47(a), filed August 18, 2005.

The petition is **GRANTED**.

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

The above-cited application was filed on January 19, 2005, without a properly executed declaration. On March 3, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application requiring a properly executed oath or declaration, surcharge for the late filing of the same, payment of the filing fee, and replacement drawings On August 18, 2005, the instant petition was filed along with a request for an extension of time within the fourth month.

Petitioner has shown that inventor Spevak has refused to join the prosecution of the above-identified application after having been presented with the application papers. The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

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

This application will be forwarded to the Office of Initial Patent Examination for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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Larry M. Spevak
1114 Riva Ridge Drive
Great Falls, VA 22066

In re Application of :
Spevak, Currier, Syverson, and Francke :
Application No.: 11/039,359 : LETTER
Filed: January 19, 2005 :
Attorney Docket No: 3128.1022-000 :
For: METHOD AND SYSTEM FOR MULTI-CHANNEL INK-JET PRINTING

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SEP 0 6 2005

OFFICE OF PETITIONS

Dear Mr. Spevak:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Kenya A. McLaughlin at (571) 272-3222. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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

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United States Patent and Trademark Office
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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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OCT 18 2005

OFFICE OF PETITIONS

In re Application of :
Spevak, Currier, Syverson, and Francke :
Application No. 11/039,359 : DECISION NOTING JOINDER
Filed: January 19, 2005 :
Attorney Docket No. **3128.1022-000** :
For: METHOD AND SYSTEM FOR MULTI-CHANNEL INK JET PRINTING

This is in response to the communication filed October 7, 2005.

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

The Manual of Patent Examining Procedure ("MPEP"), § 409.03(j) provides that "[i]n the event the previously non-signing inventor decides to join the application by filing an executed oath or declaration complying with 37 CFR 1.63, the oath or declaration will be placed in the application file."

Accordingly, the declaration executed by all joint inventors is noted and made of record.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

COOK ALEX LTD
SUITE 2850
200 WEST ADAMS STREET
CHICAGO IL 60606

In re Patent No. 7,567,227	: DECISION ON REQUEST
Kimura et al.	: FOR
Issue Date: July 28, 2009	: RECONSIDERATION OF
Application No. 11/039,371	: PATENT TERM ADJUSTMENT
Filed: January 20, 2005	: and
Atty Docket No. 0553-0252.01	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on September 23, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-six (1196) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred ninety-six (1196) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand one hundred ninety-six (1196)** days.

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Shirene Willis Brantley at (571) 272-3230.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,567,227 B2

DATED : **July 28,, 2009** **DRAFT**

INVENTOR(S) : Kimura et al.

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

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 762 days

Delete the phrase "by 762 days" and insert – by 1196 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7303312 B2

Paper No.: ____

TO SPE OF : ART UNIT 2875

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/039325 Patent No.: 7303312 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

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

Virginia Tolbert
Certificates of Correction Branch
703-308-9390 ext. 113

Thank You For Your Assistance

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

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

Comments: _____

Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800

SPE

2875
Art Unit

PTOL-308 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 04/20/2010

Applicant	: Murali Sethumadhavan	: DECISION ON REQUEST FOR
Patent Number	: 7572515	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,378	: OF WYETH
Filed	: 01/19/2005	:
		:

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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CANTOR COLBURN, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

Mail Date: 05/17/2010

Applicant : Murali Sethumadhavan
Patent Number : 7572515
Issue Date : 08/11/2009
Application No: 11/039,378
Filed : 01/19/2005

: NOTICE CONCERNING IMPROPER
: DISMISSAL OF THE REQUEST
: FOR RECALCULATION OF
: PATENT TERM ADJUSTMENT
: IN VIEW OF WYETH

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 mistakenly dismissed a small number of requests as ineligible. The dismissals involve requests that were filed on February 9-12, 2010, for patents that were granted on August 11, 2009. Any request that was filed on February 8, 2010 was properly deemed eligible for patent term adjustment (PTA) and was recalculated.

Patents meeting the above criteria were eligible because the USPTO was closed February 8-11, 2010, due to a snowstorm. See Closing of the United States Patent and Trademark Office from Monday February, 8, 2010, through Thursday, February 11, 2010, 1352 *Off. Gaz. Pat. Office* 146 (March 16, 2010). The Office considered each day from Monday, February 8, 2010, through Thursday, February 11, 2010, to be a "Federal holiday within the District of Columbia" under 35 U.S.C. § 21(b) and 37 CFR 1.6, 1.7, 1.9, 2.2(d), 2.195 and 2.196. Any actions that were due from Monday, February, 8, 2010, through Thursday, February 11, 2010, (or the preceding Saturday (February 6, 2010) or Sunday (February 7, 2010)) will be considered timely if the action was taken on the next succeeding business day on which the USPTO was open, which was February 12, 2010.

This notice **VACATES** the previous mailed decision in the patented file that deemed patentee ineligible for the request for recalculation. Patentee's request for recalculation is GRANTED.

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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 1.18(e), the 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 deterimation in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154(b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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OFFICE OF PETITIONS

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

In re Application of :
John J. Pembroke :
Application No. 11/039,387 : DECISION ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 040261-000900US :

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

The petition is **GRANTED**.

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

This application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the Final Rejection of July 9, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 10, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with $270 fee; (2) the petition fee of $810; 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 3691 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the application.

Brian Brown
Petitions Examiner
Office of Petitions

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STEPTOE & JOHNSON, LLP
2121 AVENUE OF THE STARS
SUITE 2800
LOS ANGELES CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Robert A. Luciano, et al.	:	
Application No. 11/039,415	:	ON PETITION
Filed: January 19, 2005	:	
Attorney Docket No. 83336.1144	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 3, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 9, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three (3) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is January 10, 2010. The Notice of Abandonment was mailed January 27, 2010.

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

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

This application is being referred to Technology Center AU 3714 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.

Terri Johnson
Petitions Examiner
Office of Petitions

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MILLER & MARTIN
1000 VOLUNTEER BUILDING
832 GEORGIA AVENUE
CHATTANOOGA, TN 37402-2289

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OFFICE OF PETITIONS

In re Application of :
Brian T. Coop :
Application No. 11/039,427 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 03243-0103 :

This is a decision in response to the petition, filed November 5, 2007, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed January 3, 2007. A Notice of Abandonment was mailed on August 3, 2007. In response, on November 5, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $770; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 3738 for consideration of the amendment filed November 5, 2007.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] 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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TUTUNJIAN & BITETTO, P.C.
20 CROSSWAYS PARK NORTH, SUITE 210
WOODBURY, NY 11797

Mail Date: 04/21/2010

Applicant	: Lisa Marie Brown	: DECISION ON REQUEST FOR
Patent Number	: 7620266	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,442	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1336** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

HEDMAN & COSTIGAN P.C.
1185 AVENUE OF THE AMERICAS
NEW YORK, NY 10036

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JUN 22 2007

OFFICE OF PETITIONS

In re Application of :
Richard Sapienza :
Application No. 11/039,450 : ON PETITION
Filed: January 18, 2005 :
Attorney Docket No. 1028-001L :

This is a decision on the petition, filed April 24, 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 **DISMISSED as moot**.

Unfortunately, the petition was not referred to the appropriate official for a decision until after June 12, 2007, the date upon which the above-identified application issued as U.S. Patent No. 7,229,568.

37 CFR 1.313(d) states that "A petition under this section [37 CFR 1.313(c)] 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**." In this case, the petition was not referred to the Office of Petitions for consideration until June 20, 2007. Therefore, the petition cannot be granted.

The inconvenience caused petitioner in this matter is sincerely regretted. However, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions to allow sufficient time to process the petition. *(See Revised Procedures for Papers Requiring Immediate Attention (Hand-Carried and Facsimile Transmissions), 1279 Off. Gaz. Pat. Office 149 (Feb. 24, 2004); Revised Procedures for Papers Requiring Immediate Attention, 1280 Off. Gaz. Pat. Office 917 (March 23, 2004).*

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on June 12, 2007. The RCE and the information disclosure statement (IDS) will remain in the file of the above-identified application

without further consideration. See 37 CFR 1.97(I). The $395 RCE and $180 IDS filing fees paid on April 24, 2007 are being credited to counsel's deposit account.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

Mail Date: 04/20/2010

Applicant	: Bruce Bradshaw	: DECISION ON REQUEST FOR
Patent Number	: 7611426	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,477	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: 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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SCHACHT LAW OFFICE, INC.
SUITE 202
2801 MERIDIAN STREET
BELLINGHAM WA 98225-2412

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OFFICE OF PETITIONS

In re Application of :
Kingsley S. Evarts :
Application No. 11/039,486 : ON PETITION
Filed: January 19, 2005 :
Attorney Docket No. P214730

This is in response to the petition under 37 CFR 1.137(b) filed August11, 2005. The petition will be treated as a request for an extension of time within the fourth month.

The request is **granted**.

A "Notice to File Missing Parts of Nonprovisional Application" ("Notice") was mailed on March 5, 2005, requiring an oath or declaration and payment of a surcharge for the late filing of the same. The instant petition was filed on August 11, 2005, along with the declaration and an authorization to charge a deposit account for the surcharge.

A review of the record revealed that the application is not yet abandoned, but is still within the extendable period for reply that extends for five months after the two-month shortened period for reply set by the Notice. The fee for an extension of time with the fourth month is $795.00 (small entity). Therefore, the amount of $750.00 remitted for the petition fee will be credited toward the fee for the extension of time within the fourth month and deposit account 50-2099 will be charged $45.00 for the remaining amount due.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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STEPHEN DONOVAN
ALLERGAN, INC.
2525 DUPONT DRIVE
IRVINE CA 92612

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OFFICE OF PETITIONS

In re Application of
Turkel, et al.
Application No.: 11/039,506
Filing Date: 18 January, 2005
Attorney Docket No. 17679 CIP1 (BOT)

DECISION

This is a decision on the petition filed on 11 January, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

The petition 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.

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. (It does not appear that a terminal disclaimer and fee are due here.)

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).

It appears that Petitioner has not satisfied the requirements of the regulation, to wit: The instant petition lacks a proper and complete STATEMENT/SHOWING OF UNINTENTIONAL DELAY by the person responsible for the matter (e.g., Counsel, appropriate assignee officer) at the date of abandonment.

BACKGROUND

The record reflects that:

Following a non-final Office action mailed on 25 August, 2006, and a reply filed (with request/fee for extension of time) on 1 February, 2007, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 1 May, 2007, with reply due absent an extension of time on or before 1 June, 2007.

The application went abandoned by operation of law after midnight on 1 June, 2007.

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

On 11 January, 2008, Petitioner filed the instant petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment represented to be responsive to the Notice of Non-Compliant Amendment, and made a statement of unintentional delay—however it does not appear that Petitioner (Joseph Taffy (Reg. No. 50,973)) was of record in any capacity in this matter as of the date of abandonment, and, therefore, is not in a position to make the statement of unintentional delay, which must be provided by a then-Counsel of record or an appropriate officer of the assignee.

The Office mailed the Notice of Abandonment (copy enclosed) on 2 February, 2008.

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]

CONCLUSION

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

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

---

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

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

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

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

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

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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STEPHEN DONOVAN
ALLERGAN, INC.
2525 DUPONT DRIVE
IRVINE CA 92612

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NOV 2 4 2008

OFFICE OF PETITIONS

In re Application of :
Turkel, et al. :
Application No.: 11/039,506 : DECISION
Filing Date: 18 January, 2005 :
Attorney Docket No. 17679 CIP1 (BOT) :

This is a decision on the petition filed on 9 June, 2008, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

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

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects that:

Following a non-final Office action mailed on 25 August, 2006, and a reply filed (with request/fee for extension of time) on 1 February, 2007, Petitioner failed to reply timely and properly to the Notice of Non-Compliant Amendment mailed on 1 May, 2007, with reply due absent an extension of time on or before 1 June, 2007.

The application went abandoned by operation of law after midnight on 1 June, 2007.

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

On 11 January, 2008, Petitioner filed a petition (with fee) alleging unintentional delay under 37 C.F.R. §1.137(b), included therewith, *inter alia*, a reply in the form of an amendment represented to be responsive to the Notice of Non-Compliant Amendment, and made a statement of unintentional delay —however it does not appear that Petitioner (Joseph Taffy (Reg. No. 50,973)) was of record in any capacity in this matter as of the date of abandonment, and, therefore, is not in a position to make the statement of unintentional delay, which must be provided by a then-Counsel of record or an appropriate officer of the assignee.

The Office mailed the Notice of Abandonment on 2 February, 2008.

The petition was dismissed on 19 May, 2008.

On 9 June, 2008, Petitioner filed the instant petition over the signature of and with the statement of unintentional delay by Counsel under whose control the application went abandoned. The petition fee and reply previously were submitted.

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

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

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]
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.

---

[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.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[3] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[4]

And the Petitioner must be diligent in attending to the matter.[5] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[6]))

As to Allegations of
Unintentional Delay

The requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

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

The instant application is released to the Technology Center/AU (TC/AU) 1645 for further processing in due course.

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

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

[4] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[5] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[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.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[7]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
www.uspto.gov

KIRKPATRICK & LOCKHART PRESTON GATES ELLIS LLP
535 SMITHFIELD STREET
PITTSBURGH PA 15222

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FEB 29 2008

In re Application of
Keusch, et al.
Application No. 11/039,519
Filed: January 19, 2005
Attorney Docket No.
001160CIPCIPCONDIV4
For: IONTOPHORETIC DRUG DELIVERY DEVICE AND RESERVOIR AND METHOD OF MAKING SAME

ON PETITION

This is a decision on the petition under 37 CFR 1.181, requesting that the Office withdraw the holding of abandonment of the above-identified application, filed October 25, 2007.

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

This application was held abandoned for failure to respond in a timely manner to a Notice of Noncompliant Amendment purportedly mailed on August 2, 2007, which set an extendable one one (1) month or thirty day period (whichever is longer) for reply. No extensions of time under 37 CFR 1.136(a) being obtained and no reply being filed, the Office considered this application abandoned on September 3, 2007. The filing of the present petition precedes the mailing of A Notice of Abandonment.

Petitioner requests withdrawal of the holding of abandonment based on the assertion that no Office action dated August 2, 2007 was received.

A review of the written record indicates an irregularity in the mailing of the Office action of August 2, 2007. In this regard, the Notice itself has no address coversheet and a review of Office transaction history database for the application reveals that there is no mail date for the Notice. Accordingly, as the Office appears to have failed to mail the Notice, the holding of abandonment withdrawn.

Petitioner has supplied a reply to the Notice with the present petition. Therefore, there is no need to re-mail the Notice and set a new period for response.

Accordingly, the application file will be forwarded to Technology Center A.U. 3763 for consideration of the amendment filed on October 25, 2007.

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

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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L.C. Begin & Associates, PLLC
510 Highland Avenue
PMB 403
Milford, MI 48381

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MAY 15 2009

OFFICE OF PETITIONS

In re Bruce A. Stevens et al.
Application No.: 11/039,526
Filed: January 19, 2005
Patent No.: 7,424,985
Issued: September 16, 2008

DECISION DISMISSING PETITION

This is a decision on the November 12, 2008 petition titled "Petition To Reprint Patent," which requests U.S. Patent No. 7,424,985 ("the '985 patent") to be reprinted ("the November 12, 2008 petition").

The November 12, 2008 petition is before the Office of Patent Legal Administration (OPLA) for consideration.

The November 12, 2008 petition is **dismissed**.

The November 12, 2008 petition seeks to have the '985 patent reprinted because "it was found to have numerous errors." The November 12, 2008 petition does not specifically identify any error in the '985 patent. Concurrently with the November 12, 2008 petition, petitioner filed a Certificate of Correction Form PTO-1050. The Certificate of Correction seeks correction of two typographical errors in the specification of the '985 patent and twelve typographical errors in the claims of the '985 patent. Absent an explanation to the contrary, it is assumed that the "numerous errors" mentioned in the November 12, 2008 petition are the fourteen typographical errors identified in the November 12, 2008 Certificate of Correction Form PTO-1050.

A patent may be reprinted where there is a mistake on the part of the Office, and a certificate of correction is deemed inappropriate in form.[1] A certificate of correction is typically appropriate in form where the errors are less than substantially the entire document. In particular, a certificate of correction is the normal mechanism for correcting a patent where, as here, the errors are substantially less than the entire document.

[1] See: 35 U.S.C. § 254; 37 CFR 1.322(b).

Therefore, the November 12, 2008 petition is dismissed; a Certificate of Correction issued instead on December 30, 2008, to address the typographical errors identified by petitioner in the November 12, 2008 Certificate of Correction Form PTO-1050.

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

Robert A Clarke

Robert A. Clarke
Director
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
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Alexandria, VA 22313-1450
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February 17, 2010

Edwin Tocker
E.I. du Pont de Nemours and Company
4417 Lancaster Pike
Wilmington, DE 19805

Patent No.: 7,652,211 B2
Application No.: 11/039,550
Inventor (s): Yevgeniy I. Globus, et al.
Issued: January 26, 2010
Title: **PLENUM CABLE**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

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

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions & Certificate of Correction Branch
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt

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

E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/23/2010

Applicant	: Yevgeniy I. Globus	: DECISION ON REQUEST FOR
Patent Number	: 7652211	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/039,550	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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WILMINGTON DE 19805

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MAY 25 2010

OFFICE OF PETITIONS

In re Patent No. 7,652,211 :
Issue Date: January 26, 2010 :
Application No. 11/039,550 : ON PETITION
Filed: January 19, 2005 :
Attorney Docket No. FL0258USNA :

This is a decision on the petition filed February 5, 2010, which is being treated as a request under 37 CFR 3.81(b)[1] to add the name of the second assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

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

Charlema Grant
Petitions Attorney
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Fulbright & Jaworski, LLP
1301 McKinney
Suite 5100
Houston, TX 77010-3095

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of :
Mark K. Hennig et al. :
Application No. 11/039,551 : DECISION ON PETITION
Filed: January 20, 2005 : TO WITHDRAW
Attorney Docket No. HO-P02832US1 : 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 24, 2006.

The request is **moot because a revocation of power of attorney has been filed**.

A review of the file record indicates that the power of attorney to John M. Mings and all attorneys/agents of record has been revoked by the assignee of the patent application on June 8, 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: Cox Smith Matthews Incorporated
112 East Pecan Street, Suite 1800
San Antonio, TX 78205-1521

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

August 25, 2006

FILE COPY

Patent No. : 7,078,326 B1
Ser. No. : 11/039564
Inventor(s) : Marsh
Issued : July 18, 2006
Title : **NUCLEATION METHOD FOR ATOMIC LAYER DEPOSITION OF COBALT ON BARE SILICON DURING THE FORMATION OF A SEMICONDUCTOR DEVICE**
Docket No. : **2004-0792.00/US**

Re: Request for Certificate of Correction

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

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

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

A certificate of correction will issue for the remaining error noted in your request.

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) 273-8300
ATTN: Office of Petitions

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

Elisha Evans
For Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 110** or (703) 308-8309

Kevin D. Martin
Micron Technology, Inc.
MS 1-525
8000 S Federal Way
Boise ID 83716

CBN/eme

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 04/20/2010

Applicant	: Allan Svendsen	: DECISION ON REQUEST FOR
Patent Number	: 7601527	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,565	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

NOVOZYMES NORTH AMERICA, INC.
500 FIFTH AVENUE
SUITE 1600
NEW YORK, NY 10110

Mail Date: 05/17/2010

Applicant : Allan Svendsen
Patent Number : 7601527
Issue Date : 10/13/2009
Application No: 11/039,565
Filed : 01/19/2005

: 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 **423** 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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HAYES SOLOWAY PC
175 Canal Street
Manchester NH 03101

COPY MAILED

MAY 18 2005

OFFICE OF PETITIONS

In re Application of	:	
Bodan and Gagnon	:	
Application No. 11/039,589	:	DECISION REFUSING
Filed: January 20, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
CONTINUOUS WAVELENGTH TUNING	:	
OF DBR LASER	:	

This is in response to a Petition on Behalf of Other Joint Inventor who Refuses to Join in Application or Cannot be Reached (37 CFR § 1.47(a)), filed May 2, 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 20, 2005, without a fully executed oath or declaration. In response, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice"), on April 7, 2005, requiring *inter alia*, an executed oath or declaration.

In response to the Notice, Applicant files the instant petition and avers that the nonsigning inventor was sent and received a Declaration and Power of Attorney for execution, and that he expressly refused to sign the documents.

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)

The MPEP further provides that

> 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. (Emphasis supplied). The document may be redacted to remove material not related to the inventor's reasons for refusal. (Emphasis supplied).

Id.

Conclusion

Applicant must present a copy of the application papers to the inventor, and in this instance provide specifics in a statement of facts as to the time and place of the refusal.

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: (703) 872-9306
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

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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HAYES SOLOWAY PC
175 Canal Street
Manchester NH 03101

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JUL 11 2005

OFFICE OF PETITIONS

In re Application of	:	
Bodan and Gagnon	:	
Application No. 11/039,589	:	DECISION GRANTING
Filed: January 20, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47
CONTINUOUS WAVELENGTH TUNING	:	
OF DBR LASER	:	

This decision is in response to the Petition Under 37 CFR 1.47(a), filed April 1, 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, Marcel Gagnon, 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

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
www.uspto.gov

MARCEL GAGNON
5 GROVE STREET
LONDONDERRY, NH 03053

In re Application of :
Bodan and Gagnon :
Application No. 11/039,589 : LETTER
Filed: January 20, 2005 :
Title of Invention: :
CONTINUOUS WAVELENGTH TUNING :
OF DBR LASER :

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JUL 11 2005

OFFICE OF PETITIONS

Dear Mr. Gagnon:

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: HAYES SOLOWAY PC
175 Canal Street
Manchester NH 03101

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ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON TX 77006

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
Goldknopf, et al.	:	
Application No. 11/039,600	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. PROT-P016US	:	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 26, 2006.

The request is **APPROVED**.

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

The request was signed by Elizabeth R. Hall on behalf of all attorneys of record who are associated with customer No. 34453.

All attorneys/agents associated with the Customer Number 34453 have been withdrawn.

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

All future correspondence will be directed to the first named inventor Ira L. Goldknopf at the address indicated below.

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

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: Ira L. Goldknopf
42 Brushwood Court
The Woodlands, TX 77380

cc: Power3 Medical Products, Inc.
3400 Research Forest Drive
Suite B2-3
The Woodlands, TX 77381

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
11/039,600	01/19/2005	Ira L. Goldknopf	PROT-P0016US

CONFIRMATION NO. 6281

OC000000020403521

OC000000020403521

34453
ELIZABETH R. HALL
1722 MARYLAND STREET
HOUSTON, TX 77006

Date Mailed: 09/13/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/26/2006.

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

April M Wise

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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

TOPE-MCKAY & ASSOCIATES
23852 PACIFIC COAST HIGHWAY #311
MALIBU, CA 90265

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JUN 30 2008

OFFICE OF PETITIONS

In re Application of :
JOHNSTON, et al. :
Application No. 11/039,618 : DECISION ON PETITION
Filed: January 19, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **JPI002** :

This is a decision on the petition under 37 CFR 1.137(b), filed June 4, 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 Notice to Notice of Non-Compliant Amendment, mailed September 26, 2006. The Notice set a period for reply of one (1) month from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 27, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

The application is being referred to Technology Center 3644 for processing of the amendment.

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

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

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NOV 1 3 2006

OFFICE OF PETITIONS

GAUDENCIO AQUINO LABRADOR
1312 LEAF TERRACE
SAN DIEGO CA 92114-6816

In re Application of :
Labrador : DECISION ON PETITION
Application No. 11/039,624 :
For: January 20, 2005 :
Atty. Dkt. No.: HEAT ENERGY :
RECAPTURE AND RECYCLE AND ITS :
NEW APPLICATIONS :

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

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

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

This application became abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 4, 2005. Notice of Abandonment was mailed June 23, 2006.

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(c).

The instant petition fails to satisfy requirement (3) set forth above.

Petitioner has failed to present 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.

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 "unavoidable." 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 or 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 acknowledges receipt of the non-final Office action as well as subsequently mailed Notices, including the Notice of Non-Compliant Amendment mailed March 15, 2006. The failure to timely submit a proper reply to the non-final Office action can be attributed to petitioner's preoccupation with personal matters, specifically, petitioner's activities in the Philippines. Petitioner's preoccupation with personal matters which apparently prevented petitioner from timely submitting a proper reply to the non-final Office action is not deemed unavoidable within the meaning of 37 CFR 1.137(a).

Any renewed petition must establish that the entire period of time from the time that a reply to the non-final Office action was due until the filing of a grantable petition was unavoidable.

ALTERNATE VENUE

Petitioner is strongly urged to consider filing a petition stating that the entire delay was unintentional. Petitioner's attention is directed to 37 CFR 1.137(b) which provides for the revival of an "unintentionally" abandoned application without a

showing that the delay in prosecution or in late payment of an issue fee was "unavoidable". An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required petition fee and reply.

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

GENERAL INFORMATION

It is not clear if applicant is familiar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant may wish to consider securing the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

A listing of registered patent attorneys and agents is available on the USPTO Internet web site http://www.uspto.gov in the Site Index under "Attorney and Agent Roster". Applicants may also obtain a list of registered patent attorneys and agents located in their area by writing to the Mail Stop OED, Director of the U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450.

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 Window
Mail Stop Petition
Randolph Building
Dulany Street
Alexandria, VA 22314

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosures

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

GAUDENCIO AQUINO LABRADOR
1312 LEAF TERRACE
SAN DIEGO CA 92114-6816

In re Application of :
Labrador :
Application No. 11/039,624 :
Filed: January 20, 2005 :
For: HEAT ENERGY RECAPTURE AND RECYCLE AND ITS NEW APPLICATIONS :

DECISION ON PETITION

COPY MAILED

JUN 21 2007

OFFICE OF PETITIONS

This is a decision on the petition renewed under 37 C.F.R. § 1.137(b), filed March 28, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the non-final Office action mailed October 4, 2005. The Notice non-final Office set a three (3) month shortened statutory period of time for reply. Notice of Abandonment was mailed June 23, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply 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 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the non-final Office action is accepted as having been unintentionally delayed.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the extension of time fee submitted herewith was subsequent to the maximum period obtainable for reply, this fee is unnecessary. Petitioner may

request a refund of this fee by writing to the Office of Finance, Refund Section. A copy of this decision should accompany petitioner's request.

This application is being forwarded to Technology Center 3700 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Art Shelest	: DECISION ON REQUEST FOR
Patent Number	: 7591010	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,637	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/19/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1198** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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TILLMAN WRIGHT, PLLC
P.O. BOX 471581
CHARLOTTE NC 28247

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OFFICE OF PETITIONS

In re Application of	:	
John Kavanagh et al.	:	
Application No.11/039,646	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHFRAW
Attorney Docket No. 1050.004	:	FROM RECORD
	:	

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

The request is signed by Chad D. Tillman on behalf of all attorneys associated with customer number 55765.

All attorney/agents of record in the instant application have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

The application is currently in abandoned status as per the Notice of Abandonment mailed March 14, 2008.

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

Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Bright Things Pic
Attn: Dominic Wheatley
Ashley Wood Farm
Hindon Lane
Tisbury
Wiltshire SP3 6PY
UK

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/039,646	01/19/2005	John Kavanagh	1050.004

CONFIRMATION NO. 5192

POWER OF ATTORNEY NOTICE

55765
TILLMAN WRIGHT, PLLC
P.O. BOX 471581
CHARLOTTE, NC 28247

OC00000031756766

Date Mailed: 08/26/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

- 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.

/cdfriedman/

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

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RALPH E. JOCKE
Walker & Jocke
231 SOUTH BROADWAY
MEDINA, OH 44256

Mail Date: 04/21/2010

Applicant	: Wayne Warren	: DECISION ON REQUEST FOR
Patent Number	: 7577614	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,656	: OF WYETH
Filed	: 01/19/2005	:
		:

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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OFFICE OF PETITIONS

In re Application of	:	
Daniel J. MELLON	:	
Application No. 11/039,658	:	DECISION ON PETITION
Filed: January 19, 2005	:	TO WITHDRAW
Attorney Docket No. DMN-100US	:	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 20, 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 Lawrence E. Ashery on behalf of all attorneys/agents associated with Customer No. 23122.

All attorneys/agents associated with Customer No. 23122 have been withdrawn.

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

The correspondence of record has been changed and the new correspondence address is the address copied 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: DANIEL J. MELLON
228 CHURCH ROAD
JENKINTOWN, PA 19046

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FORT COLLINS CO 80527-2400

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OFFICE OF PETITIONS

In re Application of :
Hu, et al. :
Application No. 11/039,693 : DECISION ON PETITION
Filed: January 20, 2005 :
Attorney Docket No. 200405049-1 :

This is a decision on the petition, filed August 15, 2008, under 37 CFR 1.181 to withdraw the holding of abandonment.

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

The Office contended that this application became abandoned for failure to submit the issue fee and publication by June 30, 2008 (a Monday), as was required by the Notice of Allowance and Fee(s) Due, mailed March 28, 2008. A Notice of Abandonment was mailed on July 28, 2008.

On June 4, 2008 applicants filed a PTOL-85b fee transmittal. Applicants authorized the Office to charge all required fees to applicants' deposit account. However, through inadvertent mistake, a deposit account number was not provided on the PTOL-85b.

Where it is clear that an applicant actually intends to pay the issue fee and required publication fee, but the proper fee payment is not made, for example, an incorrect issue fee amount is supplied, or a PTOL-85B Fee(s) Transmittal form is filed without payment of the issue fee, a general authorization to pay fees or a specific authorization to pay the issue fee, submitted prior to the mailing of a notice of allowance, will be allowed to act as payment of the correct issue fee. 37 CFR 1.311(b) MPEP 1306

It is clear that applicants intended to pay the issue fee from a brief glance at the PTOL-85b. Several general authorizations to pay fees are present in the application file. Therefore, the Office should have charged the issue fee and publication fee to the deposit account previously cited in the application file.

Accordingly, the holding of abandonment is **withdrawn,** the July 28, 2008 Notice of Abandonment is **vacated**, and the petition under 37 CFR 1.181 is **granted**. No petition fee has been or will be charged in connection with this matter.

The issue fee of $1,440.00 and the publication fee of $300.00 will be charged to deposit account no. 08-2025.

After the mailing of this decision, the application file will be forwarded to the Office of Data Management for processing into a patent.

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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P.O. BOX 368
RIDGEFIELD, CT 06877-0368

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OFFICE OF PETITIONS

In re Application of :
Montse Llinas-Brunet et al :
Application No. 11/039,698 : ON PETITION
Filed: January 19, 2005 :
Attorney Docket No. 2233

This is a decision on the petition, filed March 19, 2009 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on February 20, 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]

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

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

This matter is being referred to Technology Center AU 1654 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John A. Sopp
Millen, White, Zelano & Branigan, P.C.
Arlington Courthouse Plaza 1, Suite 1400
2200 Clarendon Boulevard
Arlington, VA 22201

[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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MICHAEL P. MORRIS
BOEHRINGER INGELHEIM USA CORPORATION
900 RIDGEBURY RD
P O BOX 368
RIDGEFIELD CT 06877-0368

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MAY 25 2010

OFFICE OF PETITIONS

In re Application of :
Llinas-Brunet, et al. : LETTER REGARDING
Application No.: 11/039,698 : PATENT TERM ADJUSTMENT
Filed: January 19, 2005 :
Attorney Docket No.13-0125 :

This is in response to the "Application for Patent Term Adjustment" filed June 15, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request that the determination of patent term adjustment under 35 U.S.C 154(b) be reviewed for accuracy.

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

The Office has updated the PALM and PAIR screens 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. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

On April 6, 2009, a Determination of Patent Term Adjustment under 35 U.S.C. 154(b) was mailed indicating that the patent term adjustment to date was 15 days. On June 15, 2009, applicants submitted the instant comment. Applicants disclose that applicants believe that the patent term adjustment indicated in the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) mailed April 6, 2009, is incorrect in that it does not account for a reductions to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of amendments under 37 CFR 1.312 on December 8, 2008, and February 8, 2009. Specifically, applicants state that:

> An amendment after Notice of Allowance was filed on 8 December 2008 to which the USPTO responded on 17 December 2008 leading to a reduction under 37 CFR 1.704(c)(10)(i)

> amounting to 10 days. An amendment after Notice of Allowance was filed on 18 February 2009 to which the USPTO responded on 26 February 2009., leading to a reduction under 37 CFR 1.704(c)(10)(i) amounting to 9 days—this a 19 day total reduction.

Excerpt taken from "Application for Patent Term Adjustment" filed June 15, 2009, *p. 3.*

A review of the application file reveals that on December 8, 2008, and February 18, 2009, applicants filed amendments under 37 CFR 1.312 after the mailing of the notice of allowance on November 21, 2008, which under the circumstances of this application, are grounds for reductions of patent term adjustment under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) provides:

> Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:
>
> (i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;
>
> or
>
> (ii) Four months;

In this instance, it is undisputed that applicants filed amendments under 37 CFR 1.312 on December 8, 2008, and February 18, 2009, after the mailing of the notice of allowance. Thus, for the amendment under 37 CFR 1.312 filed December 8, 2008, the period of adjustment should have been reduced by the lesser period of 10 days, beginning on the date the amendment under 37 CFR 1.312 was filed, December 8, 2008, and ending on the mailing date of the Office response to the amendment under 37 CFR 1.312, December 17, 2008. Accordingly, a period of reduction of 10 days will be entered.

Additionally, for the amendment under 37 CFR 1.312 filed February 18, 2009, the period of adjustment should have been reduced by the lesser period of 9 days, beginning on the date

the amendment under 37 CFR 1.312 was filed, February 18, 2009, and ending on the mailing date of the Office response to the amendment under 37 CFR 1.312, February 26, 2009. Accordingly, a period of reduction of 9 days will be entered.

Further review of the application file reveals that patent term adjustment should have been reduced by 5 days for the filing of a petition under 37 CFR 1.313(c)(2)to withdraw the application from issue. The record reflects that a Notice of Allowance was mailed on November 21, 2008, and that applicants paid the issue fee on February 20, 2009. A petition under 37 CFR 1.313(c)(2) was filed on March 19, 2009; a decision granting the petition was mailed March 23, 2009. Thus, for the petition under 37 CFR 1.313(c)(2) filed March 19, 2009, the period of adjustment should have been reduced by the lesser period of 5 days, beginning on the date the petition under 37 CFR 1.313(c)(2) was filed, March 19, 2009, and ending on the mailing date of the Office response to the petition under 37 CFR 1.313(c)(2), March 23, 2009. Accordingly, a period of reduction of 5 days will be entered.

A review of the application file reveals that on March 19, 2009, applicants filed a Request for Continued Examination under 37 CFR 1.114 after payment of the issue fee on February 20, 2009 and after the mailing of the notice of allowance on November 21, 2008, which under the circumstances of this application, is grounds for reductions of patent term adjustment under 37 CFR 1.704(c)(10). Thus, for the Request for Continued Examination filed March 19, 2009, the period of adjustment should have been reduced by the lesser period of 19 days, beginning on the date the Request for Continued Examination was filed, March 19, 2009, and ending on the mailing date of the Notice of Allowance, April 6, 2009. 37 CFR 1.704(c) provides that "[c]ircumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application … will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping." In this instance, the period of reduction for the filing of the petition under 37 CFR 1.313(c)(2)of 5 days (from March 19, 2009 to March 23, 2009) overlaps with the period of reduction for the filing of the Request for Continued Examination of 19 days (from March 19, 2009 to April 6, 2009). Accordingly, an additional period of reduction of 14 days (i.e. the non-overlapping period from March 24, 2009, to April 6, 2009) is warranted and will be entered.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (172 days of Office delay - 195 (61 + 35 + 61 + 10 + 9 + 5 + 14) days of applicant delay.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicant will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Telephone inquiries regarding this specific matter should be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM screen

cc: John A. Sopp
Millen, White, Zelano
& Branigan, P.C.
Arlington Courthouse Plaza 1
Suite 1400
2200 Clarendon Boulevard
Arlington, VA 22201

PTA Calculations for Application: 11/039698			
Application Filing Date:	01/19/2005	PTO Delay (PTO):	172
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	157
Post-Issue Petitions:	0	Total PTA (days):	0
PTO Delay Adjustment:	-38		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
107	05/08/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		38	
99	04/06/2009	MAIL NOTICE OF ALLOWANCE			
98	04/02/2009	ISSUE REVISION COMPLETED			
97	04/02/2009	DOCUMENT VERIFICATION			
96	04/02/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
95	03/30/2009	EXAMINER'S AMENDMENT COMMUNICATION			
94	03/30/2009	NOTICE OF ALLOWABILITY			
93	03/31/2009	MAIL MISCELLANEOUS COMMUNICATION TO APPLICANT			
92	03/24/2009	DATE FORWARDED TO EXAMINER			
91	03/19/2009	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
90	03/24/2009	DATE FORWARDED TO EXAMINER			
89	03/19/2009	REQUEST FOR CONTINUED EXAMINATION (RCE)			
88	03/24/2009	DISPOSAL FOR A RCE / CPA / R129			
87	03/23/2009	MAIL-RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
86	03/20/2009	RECORD PETITION DECISION OF GRANTED TO WITHDRAW FROM ISSUE			
85	03/19/2009	PETITION ENTERED			
84	03/19/2009	WORKFLOW - REQUEST FOR RCE - BEGIN			
83	03/16/2009	MISCELLANEOUS COMMUNICATION TO APPLICANT - NO ACTION COUNT			
82	02/25/2009	APPLICATION IS CONSIDERED READY FOR ISSUE			
81	02/26/2009	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			

80	02/20/2009	ISSUE FEE PAYMENT VERIFIED			
79	02/24/2009	RESPONSE TO AMENDMENT UNDER RULE 312			
78	02/20/2009	ISSUE FEE PAYMENT RECEIVED			
77	02/18/2009	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
76	12/17/2008	MAIL RESPONSE TO 312 AMENDMENT (PTO-271)			
75	12/16/2008	RESPONSE TO AMENDMENT UNDER RULE 312			
74	12/08/2008	AMENDMENT AFTER NOTICE OF ALLOWANCE (RULE 312)			
73	11/24/2008	EXPORT TO INITIAL DATA CAPTURE			
72	11/18/2008	FINISHED INITIAL DATA CAPTURE			
71	11/21/2008	MAIL NOTICE OF ALLOWANCE			
70	11/19/2008	DOCUMENT VERIFICATION			
69	11/19/2008	ISSUE REVISION COMPLETED			
68	11/19/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
67	11/10/2008	NOTICE OF ALLOWABILITY			
66	10/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
65	10/14/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
64	10/14/2008	REFERENCE CAPTURE ON IDS			
63	10/14/2008	ELECTRONIC INFORMATION DISCLOSURE STATEMENT			
62	11/05/2008	DATE FORWARDED TO EXAMINER			
61	10/14/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
60	11/05/2008	DISPOSAL FOR A RCE / CPA / R129			
59	10/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
58	10/14/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
57	10/14/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
56	09/16/2008	EXPORT TO INITIAL DATA CAPTURE			
55	08/12/2008	MISCELLANEOUS INCOMING LETTER			
54	09/12/2008	MAIL EXAMINER INTERVIEW SUMMARY (PTOL - 413)			
53	09/12/2008	MAIL NOTICE OF ALLOWANCE			
52	08/29/2008	NOTICE OF ALLOWANCE DATA VERIFICATION			

		COMPLETED			
51	08/29/2008	CASE DOCKETED TO EXAMINER IN GAU			
50	08/29/2008	ISSUE REVISION COMPLETED			
49	08/29/2008	DOCUMENT VERIFICATION			
48	08/25/2008	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
47	08/20/2008	ALLOWED CASE RETURNED TO THE EXAMINER FOR CLERICAL PROCESSING			
46	08/18/2008	NOTICE OF ALLOWABILITY			
45	06/11/2008	DATE FORWARDED TO EXAMINER			
44	05/29/2008	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
43	06/11/2008	DATE FORWARDED TO EXAMINER			
42	05/29/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
41	06/11/2008	DISPOSAL FOR A RCE / CPA / R129			
40	05/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
39	05/29/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
38	04/01/2008	CORRESPONDENCE ADDRESS CHANGE			
37	01/29/2008	NOTICE OF APPEAL FILED		61	35
36	01/29/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
35	08/29/2007	MAIL FINAL REJECTION (PTOL - 326)			
34	08/27/2007	FINAL REJECTION			
33	07/19/2007	DATE FORWARDED TO EXAMINER			
32	07/13/2007	RESPONSE AFTER NON-FINAL ACTION		35	28
31	07/13/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	06/15/2007	MAIL NOTICE OF INFORMAL OR NON-RESPONSIVE AMENDMENT			
29	06/14/2007	DATE FORWARDED TO EXAMINER			
28.1	06/08/2007	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
28	06/08/2007	RESPONSE AFTER NON-FINAL ACTION		61	26
27	06/08/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
26	01/08/2007	MAIL NON-FINAL REJECTION			
25	12/26/2006	NON-FINAL REJECTION			
24	02/16/2006	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
23	10/09/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
22	10/12/2006	DATE FORWARDED TO EXAMINER			
21	10/09/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
20.7	10/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
20	10/09/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
19	09/07/2006	MAIL RESTRICTION REQUIREMENT	172		-1
18	09/05/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
17	06/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	05/04/2006	CASE DOCKETED TO EXAMINER IN GAU			
15	02/16/2006	REFERENCE CAPTURE ON IDS			
14.7	02/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	02/16/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	06/20/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
12	06/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
11	05/26/2005	APPLICATION DISPATCHED FROM OIPE			
10	05/26/2005	APPLICATION IS NOW COMPLETE			
9	05/16/2005	ADDITIONAL APPLICATION FILING FEES			
8	05/16/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	04/18/2005	CLEARED BY L&R (LARS)			
6	04/07/2005	NOTICE MAILED--APPLICATION INCOMPLETE--FILING DATE ASSIGNED			
4	02/24/2005	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	02/24/2005	CASE CLASSIFIED BY OIPE			
2	02/12/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/19/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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SAN FRANCISCO CA 94111-3834

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MAY 24 2005

OFFICE OF PETITIONS

In re Application of :
Curtis Parvin et al. :
Application No. 11/039,701 : ON PETITION
Filed: May 2, 2005 :
Attorney's Docket No. 02558C-065412US :

This is a decision on the petition styled under 37 CFR 1.182 and filed on May 2, 2005, requesting that the above-identified application be accorded a filing date as of receipt of the petition and page 83 of the specification.

The petition is GRANTED.

The application was deposited January 19, 2005. On April 7, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application, stating that Page 83 of the Specification appeared to have been omitted from the application.

Petitioner concedes that page 83 of the Specification was inadvertently omitted from the original papers filed, and requests that the application be accorded a later filing date with the previously omitted page, which accompanies the petition.

In accordance with applicant's request, the application will be processed and examined with a filing date of May 2, 2005, the date of receipt of the missing page of the Specification, using the papers filed on January 19, 2005 and the one (1) page of specification previously omitted but submitted with the petition.

As the Notice mailed on April 7, 2005, correctly stated that Page 83 of the Specification appeared to have been omitted from the application, the Notice will not be withdrawn.

The application is being returned to the Office of Initial Patent Examination for reprocessing with a filing date of May 2, 2005, using the application papers filed on that date and the papers filed on January 19, 2005.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

COPY MAILED
MAY 22 2006
OFFICE OF PETITIONS

In re Application of	:	
Parvin, et. al.	:	DECISION ON REQUEST
Application No. 11/039,701	:	TO WITHDRAW FROM
Filed: May 2, 2005	:	RECORD
Attorney Docket No. 02558B-065412US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed by facsimile transmission on December 23, 2005.

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

A review of the file record indicates that the power of attorney to all the attorneys or agents of record have been revoked by the assignee of the patent application. 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.

This application file is being referred to Technology Center Art Unit 2857, for review of the amendment filed March 3, 2006.

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

Andrea Smith
Petitions Examiner
Office of Petitions

Conferee: Denise Pothier AA

cc: STINSON MORRISON HECKER, LLP
ATTN: PATENT GROUP
1201 WALNUT STREET, SUITE 2800
KANSAS CITY, MO 64106-2150

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P.O. Box 1450
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Paper No. 031605

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304

APR 05 2005

In re Application of :
DANIEL RITT et al. : DECISION ON PETITION
Application No. 11/039,704 :
Filed: January 20, 2005 :
Attorney Docket No. 50000-0069 :

This is a decision on the petition under 37 C.F.R. § 1.102, filed January 20, 2005 to make the above-identified application special.

The petition requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.), Section 708.02, Item VIII: Accelerated Examination.

The petition complies with M.P.E.P. § 708.02, Item VIII: Accelerated Examination, in that it is accompanied by (a) a check covering the required petition fee of $130.00, (b) a statement that all claims are directed a single invention or an offer to make an oral election without traverse should the Patent and Trademark Office hold that the claims are not directed to a single invention, (c) a statement that a pre-examination search has been made by the inventor, attorney, agent, or professional searchers, etc., the field of search was also provided, (d) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims, and (e) a detailed description of the submitted references and discussions pointing out how the claimed subject matter distinguishes over these references.

For the above stated reasons, the petition is GRANTED.

The application file is being forwarded to the examiner for expedited prosecution.

If the examiner can make this application special without prejudice to any possible interfering applications, and he/she should make a rigid search for such, he/she is authorized to do so for the next action. Should the application be rejected, the application will not be considered special for the subsequent action unless the applicant promptly makes a bona fide effort to place the

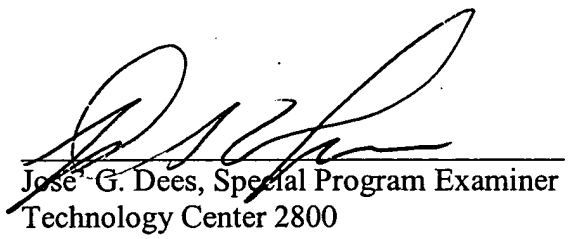
application in condition for allowance, even if it is necessary to have an interview with the examiner to accomplish this purpose.

If the examiner finds any interfering application for the same subject matter, he/she should consider such application simultaneously with this application and should state in the official letter of such application that he/she is taking it out of its turn because of possible interference.

Should an appeal be taken in this application or should this application becomes involved in an interference, consideration of the appeal and the interference will be expedited by all Patent and Trademark Office officials concerned, contingent likewise upon diligent prosecution by the applicant.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

The petition is granted to the extent indicated.



Jose G. Dees, Special Program Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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IBM CORPORATION
IPLAW SHCB/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

Mail Date: 04/20/2010

Applicant	: Rhonda L. Childress	: DECISION ON REQUEST FOR
Patent Number	: 7630400	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,733	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1121** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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THE CLOROX COMPANY
P.O. BOX 24305
OAKLAND CA 94623-1305

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DEC 2 4 2008

In re Application of :
Carl L. Bergman et al. :
Application No. 11/039,735 : DECISION ON PETITION
Filed: January 20, 2005 :
Attorney Docket No. 492.552 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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, August 8, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 9, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620, 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 extension of time submitted with the instant petition was subsequent to the maximum extendable period for reply. Therefore, the extension of time is unnecessary and the fee will not be charged to petitioner's deposit account.

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 JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3746 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

cc: Thomas C. Feix
1221 Broadway
Oakland, CA 94612

PTO/SB/64 (01-08)
Approved for use through 07/31/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional): 492.552

First named inventor: Carl L. Bergman

Application No.: 11/039,735 Art Unit: 3746

Filed: January 20, 2005 Examiner: Jessica L. Frantz

Title: STORAGE BAG WITH FLUID SEPARATOR

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 $ 1620.00 (37 CFR 1.17(m))

2. Reply and/or fee

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

☑ has been filed previously on December 10, 2007 by fax to Examiner's Number (571)273-5822 Jessica Frantz
☑ is enclosed herewith.

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

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

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

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

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

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

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

/Thomas C. Feix/	November 10, 2008
Signature	Date
Thomas C. Feix	34,592
Typed or printed name	Registration Number, if applicable
1221 Broadway	(510) 271-7416
Address	Telephone Number
Oakland, California 94612	
Address	

Enclosures: ☑ Fee Payment

☑ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

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

I hereby certify that this correspondence is being:

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

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

Date	Signature
	Typed or printed name of person signing certificate

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SUITE 3400
CHICAGO, IL 60661

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OFFICE OF PETITIONS

In re Patent of Fuchs et al. :
Patent No. 7,158,883 :
Issue Date: January 2, 2007 :
Application No. 11/039,736 :
Filing Date: January 21, 2005 :
Attorney Docket No. 18918US01 :

Letter

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed May 23, 2007, and supplemented on February 26, 2010.

The deficiency payment of $1,465 is hereby accepted.

The change of status to large entity has been entered and made of record.

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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Paper No.

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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AUG 04 2009

OFFICE OF PETITIONS

In re Application of :
Heyer et al. :
Application No. 11/039,756 : ON APPLICATION FOR
Filed: January 19, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 65084.000028 :
Title: NUCLEIC ACID MOLECULES :
ENCODING ENZYMES HAVING :
FRUCTOSYLTRANSFERASE :
ACTIVITY, AND THEIR USE :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)," filed February 5, 2009. Applicant submits that the correct patent term adjustment to be indicated on the patent is six hundred and fifty-seven (657) days, not two hundred and forty-eight (248) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

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

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

issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

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

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

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

---

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

will be charged to Petitioner's Deposit Account in due course, as authorized on the first page of this petition.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

Telephone inquiries 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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Paper No.

HUNTON & WILLIAMS LLP
INTELLECTUAL PROPERTY DEPARTMENT
1900 K STREET, N.W.
SUITE 1200
WASHINGTON DC 20006-1109

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MAR 01 2010

In re Patent No. 7,588,922	: DECISION ON REQUEST
Heyer et al.	: FOR
Issue Date: September 15, 2009	: RECONSIDERATION OF
Application No. 11/039,756	: PATENT TERM ADJUSTMENT
Filed: January 19, 2005	: and
Atty Docket No. 65084.000028	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on November 13, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and fifty-three (853) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by eight hundred and fifty-three (853) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred and fifty-three (853) days.**

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

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 : 7,588,922 B2

DATED : **September 15, 2009** **DRAFT**

INVENTOR(S) : Heyer 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 478 days

Delete the phrase "by 478 days" and insert – by 853 days--

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

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NOV 17 2008

OFFICE OF PETITIONS

In re Application of :
BOUTE, et al. :
Application No. 11/039,764 : DECISION GRANTING PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **P0022251.00** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 6, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on November 3, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 3762 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Monica A. Graves
Petitions Examiner
Office of Petitions

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

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MINNEAPOLIS, MN 55432-9924

Mail Date: 04/20/2010

Applicant	: Willem Boute	: DECISION ON REQUEST FOR
Patent Number	: 7593773	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,764	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **273** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Elizabeth Arwine Patent Attorney U.S. Army Medical
Research & Material Command, MCMR-JA
504 Scott Street
Fort Detrick, MD 21702

Mail Date: 04/21/2010

Applicant	: Jeffrey A. Lyon	: DECISION ON REQUEST FOR
Patent Number	: 7595191	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,880	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **841** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PATTON BOGGS LLP
2550 M STREET NW
WASHINGTON DC 20037-1350

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OFFICE OF PETITIONS

In re Application of :
John Stauffer :
Application No. 11/039,903 : DECISION ON PETITION
Filed: January 24, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. 12421.105PTUS : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 24, 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 copy of the applicant's birth certificate proving that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 1621 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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Paper No.

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SWECKER & MATHIS)
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SEP 20 2005

OFFICE OF PETITIONS

In re Application of	:	
Hesham Morsi	:	DECISION ON PETITION
Application No. 11/039,908	:	
Filed: January 24, 2005	:	
Atty Docket No. 032513-016	:	

This is a decision on the PETITION PURSUANT TO 37 C.F.R. § 1.182 filed August 16, 2005, requesting the change of the inventor's name be recorded with regard to the above-referenced application.

Petitioner states that the name of the inventor [Hesham Morsi Abdel-Gawwad] has been legally changed to Hesham Morsi, and petitions that the change be made on the records of the PTO for the above-identified application. Petitioner submits the petition fee for the change, and includes a certified copy of the Name Change Order before the Court of Justice of the Commonwealth of Kentucky in compliance with MPEP 605.04(c).

In view thereof, the petition is **GRANTED**.

The inventor's name is changed in the records of the Office to Hesham Morsi.

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Corrected Filing Receipt to show name change

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MAY 26 2009

OFFICE OF PETITIONS

STITES & HARBISON, PLLC
400 W MARKET ST
SUITE 1800
LOUISVILLE KY 40202-3352

In re Application of :
Hesham Morsi :
Application No. 11/039,908 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. UN024/0UN52-DIV :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed May 1, 2009.

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

The above-identified application became abandoned for failure to timely file a reply in response to the non-final Office action mailed October 24, 2008. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on January 25, 2009. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

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 a continuation application.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the above-identified application, the above identified application is again abandoned in favor of the continuation application, no. 12/434,137, filed May 1, 2009.

Pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the $555.00 extension of time fee submitted with the petition on May 1, 2009 was subsequent to the maximum period obtainable for reply (April 24, 2009), this fee has been refunded to petitioner's Deposit Account 50-2752.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Yitzchak Wurtzel, et al. :
Application No. 11/039,927 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. 026606-000900US :

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed February 4, 2009.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 3, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed November 3, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on November 4, 2008. On February 4, 2009, the present petition was filed. A Notice of Abandonment was subsequently mailed on February 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $1,510 issue fee and $300 publication fee; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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STITES & HARBISON PLLC
1199 NORTH FAIRFAX STREET
SUITE 900
ALEXANDRIA, VA 22314

Mail Date: 04/21/2010

Applicant	: David J. Ross	: DECISION ON REQUEST FOR
Patent Number	: 7572357	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/039,955	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1236** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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WENDEROTH LIND & PONACK
2033 K STREET N.W.
SUITE 800
WASHINGTON, DC 20006-1021

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JUL 26 2005

OFFICE OF PETITIONS

In re Application of :
Xinming Wang et al :
Application No. 11/039,967 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. 2005-0087A :

This is a decision on the petition under 37 CFR 1.182, filed May 31, 2005, to change the order of the names of the inventors.

The petition is **dismissed** as moot for the reason stated below.

The Office prints the names of the inventors from the first executed declaration. Accordingly, since the first executed declaration submitted contains the desired order. No change to Office records is necessary.

The $130 petition fee is unnecessary and will be credited to petitioner's deposit account No. 23-0975

This matter is being referred to Technology Center AU 2812 for examination in due course.

Any questions concerning this matter may be directed to Wan Laymon at (571) 272-3220.

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

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Thomas C. Wettach, Esq.
COHEN & GRIGSBY, PC
11 Stanwix Street, 15th Floor
Pittsburgh, PA 15222-1319

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OFFICE OF PETITIONS

In re Application of	:	
Samuel P. HOPKINS	:	
Application No. 11/039,981	:	DECISION ON PETITION
Filed: January 21, 2005	:	TO WITHDRAW
Attorney Docket No. 04-003 CIP-A	:	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 [date of Request].

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

A review of the file record indicates that the power of attorney to Thomas C. Wettach has been revoked by the assignee of the patent application on March 23, 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Daniel H. Golub, Esq.
MORGAN, LEWIS & BOCKIUS LLP
1701 Market Street
Philadelphia, PA 19103-2921

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/039,993	01/24/2005	Daiji Hirosawa	264970US3SCONT	4851

7590 03/11/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER	
HAUTH, GALEN H	

ART UNIT	PAPER NUMBER
4111	

NOTIFICATION DATE	DELIVERY MODE
03/11/2008	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

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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 Application of :
Sawahata : LETTER REGARDING PTA
Application No. 11/039,995 :
Filed: January 24, 2005 :
Atty. Dkt. No.: 074418-0132 :

This letter is in response to the "LETTER (UNDER A GENERAL OBLIGATION OF CANDOR AND GOOD FAITH IN PRACTICE BEFORE THE OFFICE)," filed March 25, 2008. The Office thanks applicants for their good faith and candor in bringing this to our attention.

The Determination of Patent Term Adjustment mailed February 4, 2008 indicated that the above-identified application was entitled to a patent term adjustment ("PTA") of 235 days. Applicant indicates that the PTA to date should be 226 days.

The correct Patent Term Adjustment ("PTA") at the time of the allowance is 235 days.

A review of the application history reveals that the application is entitled to an adjustment of 178 days under 37 CFR 1.702(a)(1) in connection with the mailing of the restriction requirement on September 18, 2006.

The application is further entitled to an adjustment of 59 days under 37 CFR 1.702(a)(2) in connection with the mailing of the Notice of Allowance on February 4, 2008. The adjustment commenced December 8, 2007, the day after the date that is four months after the date that the reply which placed the application in connection for allowance was filed, and ended February 4, 2008, the date the Notice of Allowance was mailed.

The adjustment totalling 237 days is properly reduced two days under 37 CFR 1.704(b) in connection with the response filed February 26, 2007.

Accordingly, at the time of allowance, the application is entitled to an adjustment of 235 days (adjustment totalling 237 days less reductions totalling 2 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 Patent Publication for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Alesia M. Brown at (571) 272-3205.

Kery Fries

Kery Fries
Senior Patent Attorney
Office of Patent Legal Administration
Office of Deputy Commissioner
for Patent Examination Policy

Enclosure: Copy of Adjustment PAIR Calculation

Day : Saturday
Date: 10/11/2008

PALM INTRANET

Time: 06:56:37

PTA Calculations for Application: 11/039995			
Application Filing Date:	01/24/2005	PTO Delay (PTO):	237
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	2
Post-Issue Petitions:	0	Total PTA (days):	235
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
48	02/04/2008	MAIL NOTICE OF ALLOWANCE	59		30
47	02/01/2008	ISSUE REVISION COMPLETED			
46	02/01/2008	DOCUMENT VERIFICATION			
45	02/01/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
44	02/01/2008	NOTICE OF ALLOWABILITY			
39	11/30/2007	DATE FORWARDED TO EXAMINER			
38	11/30/2007	MAIL APPEALS CONF. REOPEN PROSEC.			
37	11/29/2007	PRE-APPEALS CONFERENCE DECISION - REOPEN PROSECUTION			
36	09/10/2007	REQUEST FOR PRE-APPEAL CONFERENCE FILED			
35	09/10/2007	NOTICE OF APPEAL FILED			
34	09/10/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
33	08/21/2007	MAIL ADVISORY ACTION (PTOL - 303)			
32	08/20/2007	ADVISORY ACTION (PTOL-303)			
31	08/11/2007	DATE FORWARDED TO EXAMINER			
30	08/07/2007	AMENDMENT AFTER FINAL REJECTION			
29	05/04/2007	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
28	05/09/2007	MAIL FINAL REJECTION (PTOL - 326)			
27	05/07/2007	FINAL REJECTION			
26	02/26/2007	NEW OR ADDITIONAL DRAWING FILED			
25	03/08/2007	DATE FORWARDED TO EXAMINER			
24	02/26/2007	RESPONSE AFTER NON-FINAL ACTION		2	23
23	11/24/2006	MAIL NON-FINAL REJECTION			

22	11/21/2006	NON-FINAL REJECTION			
21	07/13/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
20	01/24/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
19	11/17/2006	DATE FORWARDED TO EXAMINER			
18	10/10/2006	RESPONSE TO ELECTION / RESTRICTION FILED			
17	09/18/2006	MAIL RESTRICTION REQUIREMENT	178		-1
16	09/15/2006	REQUIREMENT FOR RESTRICTION / ELECTION			
15	07/30/2006	CASE DOCKETED TO EXAMINER IN GAU			
14	07/13/2005	REFERENCE CAPTURE ON IDS			
13.7	07/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	07/13/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
12	04/04/2005	NEW OR ADDITIONAL DRAWING FILED			
11	03/25/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
10	01/24/2005	REFERENCE CAPTURE ON IDS			
9.7	01/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/24/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	03/25/2005	CASE DOCKETED TO EXAMINER IN GAU			
7	03/04/2005	APPLICATION RETURN FROM OIPE			
6	03/04/2005	APPLICATION RETURN TO OIPE			
5	03/04/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/04/2005	APPLICATION IS NOW COMPLETE			
3	02/18/2005	CLEARED BY OIPE CSR			
2	02/09/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/24/2005	INITIAL EXAM TEAM NN			

Search Another: Application# [ ] Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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GLOBAL IP COUNSELORS, LLP
1233 20TH STREET, NW, SUITE 700
WASHINGTON, DC 20036-2680

Mail Date: 04/21/2010

Applicant	: Yoshiaki Yamada	: DECISION ON REQUEST FOR
Patent Number	: 7625597	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,004	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1027** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUL 20 2005

LITMAN LAW OFFICES, LTD.
P.O. BOX 15035 CRYSTAL CITY STATION
ARLINGTON VA 22215

In re Application of :
Anna D. Stroud :
Serial No.: 11/040,010 : DECISION ON PETITION
Filed: January 24, 2005 :
For: False Eyelash Applicator :

This is in response to applicants' petition filed January 24, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

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

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

Should there be any questions with regard to this letter please contact Frederick Schmidt, by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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MAYBACK & HOFFMAN, P.A.
5722 S. FLAMINGO ROAD #232
FORT LAUDERDALE FL 33330

MAILED

MAY 26 2009

OFFICE OF PETITIONS

In re Application of :
BOCKRIS, Burnard P. :
Application No. 11/040,020 : DECISION ON PETITION
Filed: January 19, 2005 : TO WITHDRAW
Attorney Docket No. **1745-P0002** : 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 04, 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 Scott D. Smiley on behalf of all attorneys of record who are associated with customer No. 27316. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Burnard P. Bockris at the address indicated below.

There is an outstanding Office action mailed March 06, 2009 that requires a reply from the applicant.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **BURNARD P. BOCKRIS**
WORLD HYDROGEN, INC.
HAILE PLANTATION
10515 S.W. 55TH PLACE
GAINESVILLE, FL 32608

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/25/09

TO SPE OF : ART UNIT 1791

SUBJECT : Request for Certificate of Correction for Appl. No.: 11040037
Patent No.: 6953512

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square
Palm Location 7580

Should the changes be made **Valerie Jackson** **Certificates of**
Correction Branch

703-756-1573

Thank You For Your Assistance

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

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

Comments: _____

PHILIP TUCKER _____ 1791

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

UNITED STATES PATENT AND TRADEMARK OFFICE

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Michael Neumann	:	
Application No. 11/040,062	:	DECISION ON PETITION
Filed: January 21, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00898WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed January 31, 2007, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP03/08159, filed July 24, 2003, as set forth in the accompanying Application Data Sheet.

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, 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 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 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 the examiner of Technology Center Art Unit 2612 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120 and 365(c) to the above-noted, prior-filed PCT application.

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	TOT CLMS	IND CLMS
11/040,062	01/21/2005	2612	1000	2002P00898WOUS	20	3

CONFIRMATION NO. 4821

CORRECTED FILING RECEIPT

OC000000024896591

46726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 07/19/2007

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)

Michael Neumann, Ulm, GERMANY;

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/EP03/08159 07/24/2003

Foreign Applications

GERMANY 10237132.6 08/13/2002

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/040,062

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Household appliance with a biometric person-identifying device

Preliminary Class

340

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

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

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING

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

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

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

NOT GRANTED

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Grey et al.	:	
Application No. 11/040,064	:	DECISION ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. E081 1081.1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 11, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed September 15, 2009. A three-month extension of time under the provisions of 37 CFR 1.136(a) was timely obtained. Accordingly, this application became abandoned on March 16, 2010. A Notice of Abandonment was mailed May 7, 2010.

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 $405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. 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.

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

This matter is being referred to Technology Center 3723 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

Joan Olszewski
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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JOSEPH S. TRIPOLI
THOMSON LICENSING INC.
2 INDEPENDENCE WAY
P.O. BOX 5312
PRINCETON, NJ 08543-5312

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OFFICE OF PETITIONS

In re Application of
Casimir Johan Crawley
Application No. 11/040,078
Filed: January 21, 2005
Attorney Docket No.PU020347

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) filed on June 18, 2007.

The petition is **DISMISSED AS MOOT**.

A review of the application file revealed that a Notice of Non-Compliant Amendment was mailed in this application on February 8, 2007. The notice allowed a shortened period for reply of one month from its mailing date. Extensions of the times set for reply are available pursuant to 37 CFR 1.136(a). The instant petition was filed on June 18, 2007.

This petition is improper because it has been filed prematurely as the application is not abandoned. The Notice of Non-Compliant Amendment allowed a shortened period for reply of one month from its mailing date with extensions of time available under 37 CFR 1.136(a). The petition was filed during the extendable period, and the amendment is considered timely filed as long as it is accompanied by a request for an extension of time within the fourth month. Accordingly, the petition fee of $1,500.00 is refunded to deposit account 07-0832. Deposit account 07-0832 will be charged $1590.00 for the request for an extension of time within the fourth month.

The application file will be directed to Technology Center 2800, GAU 2816 for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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FOLEY AND LARDNER LLP
3000 K STREET, NW, SUITE 500
WASHINGTON, DC 20007

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JAN 12 2007

OFFICE OF PETITIONS

In re Application of	:	
Velander et al.	:	DECISION ON PETITION
Application No. 11/040,117	:	TO WITHDRAW
Filed: January 24, 2005	:	FROM RECORD
Attorney Docket No. 030523-0147	:	

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 1, 2005.

The request is **APPROVED**.

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

The request was signed by Stephen A. Bent on behalf of all attorneys of record who are associated with Customer Number 22428. All attorneys/agents associated with this Customer Number have been withdrawn. Applicants are reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named inventor; or (2) the assignee of the entire interest. All future communications from the Office will continue to be directed to the first named inventor at the below-listed address until otherwise properly notified by the applicants.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

WILLIAM H. VELANDER
3014 LANCASTER DRIVE
BLACKSBURG, VA 24060

JAYME HULEATT
COOLEY GODWARD LLP
ONE FREEDOM SQUARE, RESTON TOWN CENTER
11951 FREEDOM DRIVE
RESTON, VA 20190

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OFFICE OF PETITIONS

Cooley Godward LLP
1200 19th Street N.W.
Suite 500
Washington DC 20036

In re Patent No. 7,435,869	:	
Velander, et al.	:	DECISION ON
Issue Date: October 14, 2008	:	REQUEST FOR RECONSIDERATION
Application No. 11/040,117	:	OF
Filed: January 24, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 030523-0147	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R.§1.705," filed December 12, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred ten (410) days to six hundred seventy-three(673) days.

The request for reconsideration is granted to the extent that the determination has been reconsidered; however, the request for reconsideration of patent term adjustment is **DISMISSED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 410 days.

On October 14, 2008, the above-identified application matured into U.S. Patent No. 7,435,869 with a patent term adjustment of 410 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 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 §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b),

263 days, and the period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a), of 546 days do not overlap as these periods do not occur on the same day.

Patentees argue that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), is 263 days. Patentees have not provided an explanation of the derivation of the 263 day period. Patentees are reminded that the Three Year Delay period is calculated based on the application having been filed under 35 U.S.C. §111 on January 24, 2005, and the patent having not issued until October 14, 2008, three years and 264 days later. Patentees assert that in addition to the Three Year Delay period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR §1.702(a) of 546 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).

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 applicants failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR §1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of 136 days for applicant delay is not in dispute. Patentees assert that the total period of Office delay is the sum of the period of Three Years Delay (263 days, per patentees' calculation) and the period of Examination Delay (546 days) to the extent that these periods of delay are not overlapping.

Patentees contend that no portion of the two periods of delay overlap.

Accordingly, patentees submit that the total period of Office Delay is 809 days, which is the sum of the period of Three Year Delay (263 days, per patentees' calculation) and the period of Examination Delay (546 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 673 days (263 +546 reduced by 0 overlap - 136 for applicant delay).

Considering that the proper calculation for the Three Year Delay period is 264 days, patentees' assertion of entitlement of

patent term adjustment is deemed to be 674 days ((264 + 546 -0 - 136).

The Office agrees that the patent issued 3 years and 264 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 period of adjustment of 546 days is correct. At issue is whether patentees should accrue 264 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 546 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 264 days overlap. Patentees' interpretation of the period of overlap has been considered and found to be incorrect. 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 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 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on January 25, 2008, the date that is 3 years after the actual filing date of the application, is incorrect.

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 24, 2005 to October 14, 2008. (There were no periods excluded under 35

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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).

U.S.C. 154(b)(1)(B)(i)-(iii)). 546 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. During that time, the issuance of the patent was delayed by 546 days, not 546 + 264 days. The Office took 14 months and 546 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 546 days of Office delay and the time allowed within the timeframes for processing and examination, and applicant delays, the patent issued, three years and 264 days after its filing date.

Accordingly, 0 days of patent term adjustment was properly entered for the Three Year Delay period, since the period of delay of 264 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 546 days attributable to ground specified in § 1.702(a)(1).

In view thereof, the Office affirms that the correct revised determination of patent term adjustment at the time of the issuance of the patent is 410 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to Shirene Willis Brantley, Senior Petitions Attorney, at (571) 272-3230.

Olesia Brown f/

Nancy Johnson
Senior Petitions Attorney
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
Address: COMMISSIONER FOR PATENTS
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www.uspto.gov

XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 05/11/2010

Applicant	: Philip B. James-Roxby	: DECISION ON REQUEST FOR
Patent Number	: 7627291	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/040,133	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **436** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NEKTAR THERAPEUTICS
201 INDUSTRIAL ROAD
SAN CARLOS, CA 94070

Mail Date: 04/26/2010

Applicant	: Antoni Kozlowski	: DECISION ON REQUEST FOR
Patent Number	: 7608663	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,142	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **695** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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E I DU PONT DE NEMOURS AND COMPANY
LEGAL PATENT RECORDS CENTER
BARLEY MILL PLAZA 25/1122B
4417 LANCASTER PIKE
WILMINGTON, DE 19805

Mail Date: 04/20/2010

Applicant	: Jimmy K. Travis	: DECISION ON REQUEST FOR
Patent Number	: 7572399	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,148	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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GOODWIN PROCTER LLP
PATENT ADMINISTRATOR
53 STATE STREET
EXCHANGE PLACE
BOSTON, MA 02109-2881

Mail Date: 06/15/2010

Applicant	: Joshua Young	: DECISION ON REQUEST FOR
Patent Number	: 7669035	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/040,177	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **342** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUL 21 2005

Director's Office
Group 3700

Myers & Kaplan
Intellectual Property Law, L.L.C.
1899 Powers Ferry Road
Suite 310
Atlanta, GA 30339

In re application of
Roger Daugherty

Serial Number: 11/040179
Filed: January 21, 2005

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

For: **APPARATUS AND METHOD FOR HUMIDIFICATION OF INSPIRED GASES**

This is a decision on the petition filed on February 22, 2005, under 37 CFR. 1.102(c) to make special the above identified application because of the age/health of the applicant. Since the requirements of the M.P.E.P Section 708.02 IV have been met, the petition will be GRANTED.

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

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

Summary: Decision on Petition **GRANTED**.

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

rt: 7/20/05

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BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND CA 94612-0250

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OFFICE OF PETITIONS

In re Application of :
Paul Chang, et al. :
Application No. 11/040,180 : DECISION ON PETITION
Filed: January 20, 2005 : TO WITHDRAW
Attorney Docket No. APDSP009 : 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 21, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Beyer Weaver LLP has been revoked by the assignee of the patent application on January 23, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: COURTNEY STANIFORD & GREGORY LLP
P.O. BOX 9686
SAN JOSE, CA 95157

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/040,180	01/20/2005	Paul Chang	APDSP009

CONFIRMATION NO. 6175

OC000000023755584

22434
BEYER WEAVER LLP
P.O. BOX 70250
OAKLAND, CA 94612-0250

Date Mailed: 05/08/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 01/23/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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OFFICE OF PETITIONS

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

In re Application of

COLVIN, Michael S. et al.
Application No. 11/040,209
Filed: January 20, 2005
Attorney Docket No. **23845-020001/05-00710**

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 14, 2008.

The request is **NOT APPROVED**.

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

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, [ownership transfer], does not meet any 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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AT&T Corp.
One AT&T Way
Room 2A-207
Bedminster NJ 07921

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In re Application of :
Werner et al. :
Application No. 11/040,214 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 2004-0065 (1014-113) :

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

The petition is **GRANTED**.

This above-identified application became abandoned for failure to file a proper reply to the final Office Action of April 14, 2008. The final Office Action set a three (3) month shortened statutory period for reply. Accordingly, this application became abandoned on July 15, 2008. This petition decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620.00, and (3) a 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). In the event that such an inquiry has not been made, Petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR §1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that Petitioner herein was ever empowered to prosecute the instant application. If Petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation and change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

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

This application is being referred to Technology Center AU 2419 appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Petitions Attorney
Office of Petitions

Cc: Michael Haynes
1341 Huntersfield Close
Keswick, VA 22947

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DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of
O'Shannessy, et al.
Application No. 11/040,215
Filed: January 21, 2005
Attorney Docket No. D4496-00063

DECISION GRANTING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the petition under 37 CFR 1.47(a), filed September 26, 2005 (certificate of mailing date September 22, 2005).

The petition is **GRANTED.**

Petitioner has shown that non-signing inventor Daniel J. O'Shannessy has expressly refused to join in the filing of the above-identified application and that non-signing inventor Jennifer Bones has constructively refused to join in the filing of the above-identified application.

Deposit account no. 04-1679 will be charged the required $200.00 Rule 47 petition fee.

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 inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to Technology Center A.U. 1641 for consideration of the election filed on April 26, 2007. It is noted that applicants paid only a two month extension of time when responding to the December 11, 2006 Restriction Requirement. A two month extension of time covered up to March 12, 2006. An additional two month extension of time is required. This finance issue should be addressed in Technology Center A.U. 1641.

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

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DANIEL J. O'SHANNESSY
515 GERLOFF ROAD
SCHWENKSVILLE PA 19473

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of :
O'Shannessy, et al. : LETTER
Application No. 11/040,215 :
Filed: January 21, 2005 :
Attorney Docket No. D4496-00063 :

Dear Mr. O'Shannessy:

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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD:

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JENNIFER BONES
719 SOUTH BRADFORD AVENUE
WEST CHESTER PA 19382

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JUN 19 2007

OFFICE OF PETITIONS

In re Application of	:	
O'Shannessy, et al.	:	LETTER
Application No. 11/040,215	:	
Filed: January 21, 2005	:	
Attorney Docket No. D4496-00063	:	

Dear Ms. Bones:

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 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) 272-3230. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington, DC area).

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

ATTORNEYS OF RECORD:

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/040,223	01/21/2005	Takeshi Imamura	JP920030288US1	3251

27431 7590 12/15/2008
SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE, CA 92618

EXAMINER	
AVERY, JEREMIAH L	

ART UNIT	PAPER NUMBER
2431	

MAIL DATE	DELIVERY MODE
12/15/2008	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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SHIMOKAJI & ASSOCIATES, P.C.
8911 RESEARCH DRIVE
IRVINE CA 92618

In re Application of: IKAMURA et al
Application No. 11/040,223
Filed: January 21, 2005
For: INFORMATION, TRANSFORMATION AND REVERSE TRANSFORMATION PROCESSING

DECISION ON REQUEST TO PARTICIPATE IN PATENT PROSECUTION HIGHWAY PILOT PROGRAM AND PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102(d)

This is a decision on the request to participate in the Patent Prosecution Highway (PPH) pilot program and the petition under 37 CFR 1.102(d), filed September 29, 2008, to make the above-identified application special.

The petition is **GRANTED.**

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;

(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;

(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);

(4) Examination of the U.S. application has not begun;

(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;

(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and

(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition are found to comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Mano Padmanabhan at 571-272-4210.

All other inquiries concerning the examination or status of the application is accessible in the PAIR system at http://www.uspto.gov/ebc/index.html.

The application is being forwarded to the examiner for action on the merits commensurate with this decision.

/Mano Padmanabhan/

_____

Mano Padmanabhan
Quality Assurance Specialist, Technology Center 2100, Workgroup 2180
571-272-4210

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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YOUNG & BASILE, PC
3001 WEST BIG BEAVER ROAD
SUITE 624
TROY, MI 48084

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NOV 25 2008

In re Application of	:	
Tony Y. Soyad	:	
Application No. 11/040,226	:	DECISION ON PETITION
Filed: January 21, 2005	:	TO WITHDRAW
Attorney Docket No. STT-102-B	:	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 31, 2008.

The request is **NOT APPROVED**.

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

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

Further, the request cannot be approved because practitioners have not certified that he had delivered to his client or duly authorized representative of the client all papers and property (including funds) to which the client is entitled nor have they certified that they have notified the client of any responses that may be due and the time frame within which the applicant must response. However, if practitioner cannot make all of the certifications, an explanation detailing why the certification cannot be made and must be included with the Request. It is also noted that false certification may violate a practitioners' duty under 37 CFR 10.23(b)(4) and (b)(5).

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

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

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

cc: TONY T. SOYAD
26200 GLOEDE A5
WARREN, MI 48088

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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JJGJR.: 07-06

Paper No: __

DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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JUL 2 4 2006

OFFICE OF PETITIONS

In re Application of :
O'Shannessy, et al. :
Application No. 11/040,240 : ON PETITION
Filed: 21 January, 2005 :
Attorney Docket No. D4496-00065 :

This is a decision on the petition filed on 26 September, 2005, under 37 C.F.R. §1.47(a).

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

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **DISMISSED**.

NOTES:

(1) Any reply must include a renewed petition (and fee) must include a petition under 37 C.F.R. §1.47 and must be submitted within two (2) months from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Petition under 37 C.F.R. §1.47";

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record indicates:

- the instant application was filed on 21 January, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 22 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 26 September, 2005, Petitioner Gary D. Colby, PhD (Reg. No. 40,961) filed, *inter alia*, the instant petition, an oath/declaration signed by co-inventors Sardesai and Somers (for themselves and on behalf of) but not the non-signing co-inventor Daniel J. O'Shannessy (Mr. O'Shannessy), and Petitioner's statement with documents offered in support thereof including Email correspondence, however, the response by Mr. O'Shannessy clearly is to the transmission of the oath/declaration and assignment documents to Mr. O'Shannessy, and not in response to the transmission of the entire application (description, claims, abstract and drawings) as required by statute and regulation.

The application papers (specification, claims, drawings and abstract with oath/declaration) via Electronic Mail (E-mail) to non-signing inventor Mr. O'Shannessy. In general, one must mail, rather than e-mail, a copy of the application to the non-signing inventor prior to alleging refusal under 37 C.F.R. §1.47. Notably, here the text of the non-signing inventor's response E-mail supports a conclusion only that the inventor received the attachment of the oath/declaration and assignment–not the entire application (description, claims, abstract and drawings).

ANALYSIS

The regulations at 37 C.F.R. §1.47 provide in pertinent part:

> **§ 1.47 Filing when an inventor refuses to sign or cannot be reached.**
> (a) If a joint inventor refuses to join in an application for patent or cannot be found or reached after diligent effort, the application may be made by the other inventor on behalf of himself or herself and the nonsigning inventor. The oath or declaration in such an application must be accompanied by a petition including proof of the pertinent facts, the fee set forth in § 1.17(h), and the last known address of the nonsigning inventor. The nonsigning inventor may subsequently join in the application by filing an oath or declaration complying with §1.63.
> * * *

The regulations at 37 C.F.R. §1.63 provide in pertinent part:

§1.63 Oath or declaration.

(b) In addition to meeting the requirements of paragraph (a)of this section, the oath or declaration must also:

(1)Identify the application to which it is directed;

(2) State that the person making the oath or declaration has reviewed and understands the contents of the application, Including the claims, as amended by any amendment specifically referred to in the oath or declaration; and

(3) State that the person making the oath or declaration acknowledges the duty to disclose to the Office all information known to the person to be material to patentability as defined in § 1.56.

When one alleges a refusal of the inventor to sign the application papers, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who, *inter alia*, presented the inventor with the application papers and/or to whom the refusal was made.

The commentary at MPEP §409.03(d) provides:

409.03(d) Proof of Unavailability or Refusal

INVENTOR CANNOT BE REACHED

Where inability to find or reach a nonsigning inventor "after diligent effort" is the reason for filing under 37 C.F.R. §1.47, a statement of facts should be submitted that fully describes the exact facts which are relied on to establish that a diligent effort was made.

The fact that a nonsigning inventor is on vacation or out of town and is therefore temporarily unavailable to sign the declaration is not an acceptable reason for filing under 37 C.F.R. §1.47.

Furthermore, the fact that an inventor is hospitalized and/or is not conscious is not an acceptable reason for filing under 37 C.F.R. §1.47. 37 C.F.R. §1.43 may be available under these circumstances. See MPEP §409.02. Such a petition under 37 C.F.R. §1.47 will be dismissed as inappropriate.

The statement of facts must be signed, where at all possible, by a person having firsthand knowledge of the facts recited therein. Statements based on hearsay will not normally be accepted. Copies of documentary evidence such as internet searches, certified mail return receipts, cover letters of instructions, telegrams, that support a finding that the nonsigning inventor could not be found or reached should be made part of the statement. The steps taken to locate the whereabouts of the nonsigning inventor should be included statement of facts. It is important that the statement contain facts as opposed to conclusions.

REFUSAL TO JOIN

A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. A copy of the application papers should be sent to the last known address of the nonsigning inventor, or, if the nonsigning inventor is represented by counsel, to the address of the nonsigning inventor's attorney. The fact that an application may contain proprietary information does not relieve the 37 C.F.R. §1.47 applicant of the responsibility to present the application papers to the inventor if the inventor is willing to receive the papers in order to sign the oath or declaration. It is noted that the inventor may obtain a complete copy of the application, unless the inventor has assigned his or her interest in the application, and the assignee has requested that the inventor not be permitted access. See MPEP §106. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 C.F.R. §1.47 is granted since such a procedure ensures that the inventor is apprised of the application to which the oath or declaration is directed. In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).

Where a refusal of the inventor to sign the application papers is alleged, the circumstances of the presentation of the application papers and of the refusal must be specified in a statement of facts by the person who presented the inventor with the application papers and/or to whom the refusal was made. Statements by a party not present when an oral refusal is made will not be accepted.

Proof that a bona fide attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the nonsigning inventor for signature, but the inventor refused to accept delivery of the papers or expressly stated that the application papers should not be sent, may be sufficient.

When there is an express oral refusal, that fact along with the time and place of

> the refusal must be stated in the statement of facts. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the statement of facts. The document may be redacted to remove material not related to the inventor's reasons for refusal.
>
> When it is concluded by the 37 C.F.R. §1.47 applicant that a nonsigning inventor's conduct constitutes a refusal, all facts upon which that conclusion is based should be stated in the statement of facts in support of the petition or directly in the petition. If there is documentary evidence to support facts alleged in the petition or in any statement of facts, such evidence should be submitted. Whenever a nonsigning inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in the petition.

Thus, not only must a copy of the entire application must be sent to the last known address of the non-signing inventor (or the estate representative) with a request that he/she sign the declaration for the patent application–and evidence of that transmittal submitted–but also a reasonable effort must be made to ascertain a current or last known address, and the petition (with fee) must state over the signature and registration number of the Petitioner the last known address and, if appropriate, evidence of the due diligence effort ascertaining same.

Alternatively, an oath or declaration for the patent application in compliance with 37 C.F.R. §§1.63 and 1.64 must be presented.

(The declaration must set forth the inventor's residence, citizenship and post office address. An oath or declaration in compliance with 37 C.F.R. §§1.63 and 1.64 signed by the Rule 1.47 applicant is required.[1])

CONCLUSION

Petitioner is directed to the BACKGROUND section above to review the deficiencies outlined therein to be satisfied–along with copies of transmittal letters and other such documents offered in support of any averments of transmittal of the entire application (description, claims, abstract and drawings) to the non-signing inventor at current/valid (or at least last-known/ascertainable) addresses. The evidence of these requirements should be submitted with any renewed petition.

Therefore, the instant petition hereby is **dismissed**.

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[1] See: MPEP 409.03(b).

Further correspondence with respect to this matter should be addressed as follows:[2]

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

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

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

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

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

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[2] On July 15, 2005, the Central Facsimile (FAX) Number will change from (703) 872-9306 to (571) 273-8300. Faxes sent to the old number will be routed to the new number until September 15, 2005. After September 15, 2005, the old number will no longer be in service and (571) 273-8300 will be the only facsimile number recognized for centralized delivery. (For further information. see: http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/cfax062005.pdf .)

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

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

§1.2 Business to be transacted in writing.

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No: __

DUANE MORRIS, LLP
IP DEPARTMENT
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PHILADELPHIA PA 19103-4196

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OFFICE OF PETITIONS

In re Application of :
O'Shannessy, et al. :
Application No. 11/040,240 : ON PETITION
Filed: 21 January, 2005 :
Attorney Docket No. D4496-00065 :

This is a decision on the petition filed on 14 September, 2006, under 37 C.F.R. §1.47(a).

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

For the reasons set forth below, the petition under 37 C.F.R. §1.47(a) is **GRANTED**.

BACKGROUND

The record indicates:

- the instant application was filed on 21 January, 2005, without, *inter alia*, a fully executed oath/declaration;

- on 22 April, 2005, the Office mailed a Notice of Missing Parts indicating, *inter alia*, that a fully executed oath/declaration (signed and dated) was required;

- on 26 September, 2005, Petitioner Gary D. Colby, PhD (Reg. No. 40,961) filed, *inter alia*, the original petition, an oath/declaration signed by co-inventors Sardesai and Somers (for themselves and on behalf of) but not the non-signing co-inventor Daniel J. O'Shannessy (Mr. O'Shannessy), and Petitioner's statement with documents offered in

support thereof including Email correspondence, however, the response by Mr. O'Shannessy appeared to be as to the transmission of the oath/declaration and assignment documents to Mr. O'Shannessy, and not in response to the transmission of the entire application (description, claims, abstract and drawings) as required by statute and regulation–and so the petition was dismissed on 24 July, 2006;

- the instant petition seeks to overcome these deficiencies, and Petitioner further affirmatively avers the transmittal of the entire application to the non-signing inventor O'Shannessy. in fulfillment of the statutory and regulatory requirements.

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

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

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

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

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

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

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

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[2] 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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JJGJR.: 02-07

Paper No: __

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MAR 0 1 2007

OFFICE OF PETITIONS

DANIEL J. O'SHANNESSY
515 GERLOFF ROAD
SCHWENKSVILLE, PA 19473

In re Application of :
O'Shannessy, et al. :
Application No. 11/040,240 : COMMUNICATION
Filed: 21 January, 2005 :
Attorney Docket No. D4496-00065 :

Dear Daniel J. O'Shannessy:

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.

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

[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]

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).

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[2]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's/Caller's action(s).

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

Counsel of Record:
DUANE MORRIS, LLP
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103-4196

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

§1.2 Business to be transacted in writing.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 08/25/09

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11040242 Patent No.: 7550439 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Charles Kay
SPE, Art Unit 1654

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application of	:	
Hazel H. Szeto	:	
Patent Number: 7,550,439	:	
Issue Date: 06/23/2009	:	
Application No. 11/040242	:	ON REQUEST FOR
Filing or 371(c) Date: 01/21/2005	:	RECONSIDERATION OF
Attorney Docket Number: 093873-0129	:	PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705, filed July 21, 2009. Patentees request correction of the patent term adjustment from 199 days to 651 days on the grounds that the Office took in excess of three years to issue the patent. This matter is properly treated under 37 CFR 1.705(d).

Patentees also request that a decision on this request for reconsideration of patent term adjustment be deferred or delayed until after a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Accordingly, the request to hold in abeyance a decision on the merits of the instant application for patent term adjustment is **DISMISSED**.

The Request for Reconsideration of Patent Term Adjustment ("PTA") under 37 CFR 1.705(d), is hereby **DISMISSED**.

On June 23, 2009, the above-identified application matured into U.S. Patent No. 7,550,439, with a patent term adjustment of 199 days. This application for patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d). Patentee has recalculated the Patent Term Adjustment ("PTA") under the courts interpretation of the PTA statute as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee included an attachment detailing patentee's calculation of the adjustment of patent term.

Patentee's assertion of entitlement to a patent term adjustment of 651 days appears to be based on 574 days of adjustment under 35 USC 154(b)(1)(A) *plus* 519 days of adjustment under 35 USC(b)(1)(B) *less* 67 overlapping days *less* 375 days of applicant delay under 37 CFR 1.704(b).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay.

The Office asserts that as of the issuance of the patent on June 23, 2009, the application was pending three years and 519 days after its filing date. The Office agrees that certain action was not taken within the specified time frame, and thus, the entry of a period of adjustment of 574 days is correct. At issue is whether patentees should accrue 519 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 574 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that the 519 days of delay in issuance of the patent overlap with the 574 days of examination delay. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

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

Likewise, 35 CFR 1.703(f) provides that:

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

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

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

> *Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed

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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).

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 21, 2005, to the date the patent issued on June 23, 2009. Prior to the issuance of the patent, 574 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 519 days of Office delay in issuing the patent overlap with the 574 days of Office examination delay. During that time, the issuance of the patent was delayed by 574 days, not 574 days and 519 days. The Office took 14 months and 385 days to issue a first Office action, four months and 122 days to respond to a reply under 35 U.S.C. 132, four months and 47 days to mail a Notice of Allowance in response to a reply under 35 U.S.C. 132, and four months and 20 days to issue the patent after the issue fee was paid and all outstanding requirements were satisfied. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 574 days of Office delay and the time allowed within the time frames for processing and examination, the application issued three years and 519 days after its filing date. However, the Office did not delay 574 days and then an additional 519 days.

Accordingly, at issuance, the Office entered an overall adjustment of 199 days, having considered the 519 days of Office delay under the three-year pendency provision in conjunction with the 574 days of examination delay under 37 CFR 1.702(a), reduced 375 days for applicant delays under 37 CFR 1.704.

In view thereof, no additional patent term adjustment has been accorded.

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

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	DECISION ON REQUEST FOR
Hazel H. Szeto	:	RECONSIDERATION OF DECISION
Patent Number: 7,550,439	:	ON REQUEST FOR RECONSIDERATION
Issue Date: 06/23/2009	:	OF PATENT TERM ADJUSTMENT
Application No. 11/040242	:	and
Filing or 371(c) Date: 01/21/2005	:	NOTICE OF INTENT TO ISSUE
Attorney Docket Number: 093873-0129	:	CERTIFICATE OF CORRECTION

This is a decision on the renewed petition filed on January 12, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-one (651) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred fifty-one (651) days is **GRANTED**.

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

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred fifty-one (651) days**.

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

/Derek L. Woods/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,550,439 B2

DATED : **June 23, 2009**

INVENTOR(S) : Szeto

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 199 days.

Delete the phrase "by 199 days" and insert – by 651 days--

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FREEDMAN & ASSOCIATES
117 CENTREPOINTE DRIVE
SUITE 350
NEPEAN, ONTARIO K2G 5X3 CA CANADA

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OFFICE OF PETITIONS
ON PETITION

In re Application of :
Roger Guevremont et al. :
Application No. 11/040,303 :
Filed: January 21, 2005 :
Attorney Docket No. 151-22 US(2) :

This is a decision on the petition filed November 9, 2006, to withdraw the holding of abandonment , which is treated under 37 CFR 1.181(b), in accordance with the reasoning of the decision in Delgar Inc. v. Schuyler, 172 USPQ 513.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue fee on or before January 6, 2006 as was required by the Notice of Allowance mailed October 6, 2005. This application therefore became abandoned on January 9, 2006. Accordingly, a Notice of Abandonment was mailed October 30, 2006.

The file record discloses that the Notice of Allowance was mailed to the address of record. However, petitioner contends that neither the Notice of Allowance, the Notice of Allowability or the Notice of Abandonment were received. In support, petitioner indicates that a search of the file jacket revealed that the Notices were not received and submits copies of pages from the docketing system, wherein receipt of the Notices would have been entered, had they been received to substantiate the claim. The statement and attachments corroborate non-receipt of the Notice of Allowance, Notice of Allowability and Notice of Abandonment.

In view of the facts set forth in the petition, it is concluded that the Notice of Allowance, Notice of Allowability and Notice of Abandonment were never received. Accordingly, the holding of abandonment is withdrawn. No petition fee is due and none will be charged.

This application is being forwarded to the Technology Center 2881 for a remailing of the Notice of Allowance and Notice of Allowability.

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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MICHAEL C. CESARANO
FELDMAN GALE, P.A.
201 S. BISCAYNE BLVD, SUITE 1920
MIAMI, FL 33131

In re Application of
ALMAGRO
Application No. 11/040,315
Filed: January 21, 2005
Attorney Docket No. 116433

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 13, 2006, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 1, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed June 1, 2006 . Accordingly, the date of abandonment of this application is September 2, 2006 .

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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 Monica A. Graves at (571) 272-7253.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: **MICHAEL C. CESARANO**
1 S.E. 3RD AVENUE, 28TH FLOOR
MIAMI, FL 33131-1714

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JENKINS, WILSON, TAYLOR & HUNT, P. A.
3100 TOWER BLVD., Suite 1200
DURHAM NC 27707

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OFFICE OF PETITIONS

In re Application of
DESIMONE, Joseph M. et al.
Application No. 11/040,317
Filed: January 21, 2005
Attorney Docket No. **421/91/2**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 11, 2008.

The request is **Moot** because a revocation of power of attorney has been previously filed.

A review of the file record indicates that the power of attorney to JENKINS, WILSON, TAYLOR & HUNT, P. A. has been revoked by the assignee of the patent application on January 28, 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
Petitions Examiner
Office of Petitions

cc: **ALSTON & BIRD LLP**
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 04/21/2010

Applicant	: Nandor Klatsmanyi	: DECISION ON REQUEST FOR
Patent Number	: 7589616	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,352	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **481** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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AVAYA INC.
MARGARET CARMICHAEL, DOCKETING SPECIALIST
1300 W. 120TH AVENUE
ROOM B1-F53
WESTMINSTER, CO 80234

Mail Date: 05/18/2010

Applicant : Nandor Klatsmanyi
Patent Number : 7589616
Issue Date : 09/15/2009
Application No: 11/040,352
Filed : 01/20/2005

: 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 **565** 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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APR 18 2007

In re Application of: Blake et al.

Application No. 11/040,354
Filed: January 21, 2005
Attorney Docket No. 068354.1555

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313

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

The above-identified application is hereby withdrawn from issue. The Notice of Allowance and Issue Fee Due and the Notice of Allowability mailed January 17, 2007, are hereby vacated.

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

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

Telephone inquires should be directed to John Barlow at (571) 272-2269.

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

Andrew Hirshfeld, Acting Director
Technology Center 2800

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Weaver Austin Villeneuve & Sampson LLP - NOVL
Attn.: Novellus Systems, Inc.
P.O. Box 70250
Oakland, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Steven T. Mayer	: DECISION ON REQUEST FOR
Patent Number	: 7622024	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,359	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **779** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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HAMILTON, BROOK, SMITH & REYNOLDS, P.C.
530 VIRGINIA ROAD
P.O. BOX 9133
CONCORD, MA 01742-9133

Mail Date: 04/21/2010

Applicant	: Samuel P. Hopkins	: DECISION ON REQUEST FOR
Patent Number	: 7583682	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,364	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **829** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 20 2009

James J. Paige
NIKOLAI & MERSEREAU, P.A.
900 Second Avenue South, Suite 820
Minneapolis, MN 55402

In re Application of	:	
Gordon J. Vadis	:	DECISION ON PETITION
Application No. 11/040,386	:	REGARDING RESTRICTION
Filed: January 19, 2005	:	REQUIREMENT
Attorney Docket No.: 20080061.CIP	:	
For: Insect Habitat and Retail Receptacle	:	

Applicants' petition filed under 37 CFR 1.181 on July 16, 2008, requests withdrawal of the election requirement as set forth in the Office action mailed September 22, 2006 and thereafter made final in the Office action mailed February 23, 2007. Applicants further request an examination on the merits of "the claims from the '386 application and the divisional applications" be rejoined into the present application.

The petition is **DENIED**.

A review of the record reveals that the Office action mailed September 22, 2006 set forth an election requirement requiring a provisional election between four species identified as (A) Fig. 1-4, (B) Fig. 5, (C) Figs. 6-9, (D) Figs. 10-12, (E) Fig. 13, (F) Figs. 14 and 15 and (G) Figs. 16-18. Applicants elected the species (A) of Figs. 1-4, Claims 1-4, 11-17, 24-27, 29-30, 38-42, 48 and 59 with traverse and canceled non-elected claims 5-10, 18-23, 28, 31-37, 43-47, and 49-58 in the response filed November 21, 2006. On February 23, 2007, the examiner, upon reconsideration, adhered to the election requirement, and made the election requirement final. Applicant responded and amended the claims on August 23, 2007, including canceling elected claims 48 and 59 and adding new claims 60-68. The examiner on November 29, 2007 rejected all of the pending claims. On February 26, 2008, applicant filed a Request for Reconsideration along with amendments to claims 1, 16 and 59. On April 17, 2008, the examiner rejected claims 64-68 under 35 U.S.C. 103(c) and under the grounds of nonstatutory obviousness-type double patenting. The examiner also indicated claims 1-4, 11-17, 24-27, 29, 30, 38, 41, 42, 48 and 59-63 as being allowable. On June 27, 2008, the examiner mailed a Notice of Allowability indicating that all pending claims 1-4, 11-17, 24-27, 29, 30, 38, 41, 42, 48 and 59-63 are allowed. On July 16, 2008, this petition was filed, prior to payment of issue fee.

Applicant's petition, on pages 5-8, alleges that the election requirement is improper because the examiner does not provide an appropriate explanation of why the restriction of claims presented in a single application for related, dependent inventions are distinct inventions as required

M.P.E.P. section 808.02. Applicant argues that the examiner failed to (1) provide reasons why the invention as claimed are distinct, and (2) explain why the distinct inventions must be restricted on the basis of (a) a separate classification, (b) separate status in the art or (c) a different field of search.

Contrary to applicant's argument the examiner clearly stated a reason why the inventions as claimed are distinct in the original Election dated 9/22/2006 on page 2; the examiner stated that the species "are mutually exclusive, and the species do not overlap in scope since each species have different structure resulting in a distinct manner in which the device is made and/or used". In response to applicant's arguments that the species are not distinct because each of the related applications includes claims that require the same elements, see MPEP 806.04 "Claims are definitions or descriptions of inventions. Claims themselves are never species." Species always refer to the different embodiments of the invention. The examiner sets forth that each species includes different structure which is mutually exclusive to each species. Therefore, the species set forth are clearly distinct.

In response to applicant's arguments that the species restriction set forth on September 22, 2006 does not set forth that the distinct inventions must be restricted on the basis of (a) a separate classification, (b) separate status in the art or (c) a different field of search, on pages 7 and 8, applicant is correct. The original restriction does not explicitly state the reasoning why the restriction must be made on the basis of one of (a), (b) or (c). However, contrary to applicant's arguments, there is an examination and search burden for these patentably distinct species due to their mutually exclusive characteristics. The species disclosed and originally claimed require a different field of search (e.g., searching different classes/subclasses or electronic resources, or employing different search queries); and/or the prior art applicable to one species would not likely be applicable to another species; and/or the species are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

With respect to applicant's request to have "the claims from the '386 application and the divisional applications" be rejoined into the present application, applicant's request is moot in view of the fact that all pending claims of the instant '386 application are allowed, no withdrawn claims are currently pending, and no amendment to the claims in compliance with 37 CFR 1.121 and 37 CFR 1.312 has been submitted in the instant application.

For the foregoing reasons, the examiner's final election requirement is proper and all pending claims in the instant application are being allowed.

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

Katherine Matecki

Katherine Matecki, Director
Technology Center 3600
(571) 272-5150

Mrm/snm: 5-15-09

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed: June 20, 2008
Patent No. :7,366,102 B2
Ser. No. :11/040391
Inventor(s) :Neal Y. Nakamura
Issued :April 29, 2008
Title: FAULT ISOLATION SYSTEM AND METHOD

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

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

Roberts Mardula & Wertheim, LLC
11800 Sunrise Valley Drive, Ste. 1000
Reston, VA 20191-5302

MD/mt

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ROBERTS, MARDULA & WERTHEIM, LLC
11800 SUNRISE VALLEY DRIVE
SUITE 1000
RESTON VA 20191

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OFFICE OF PETITIONS

In re Patent No. 7,366,102

Issue Date: April 29, 2008

Application No. 11/040,391

Filed: January 21, 2005

Attorney Docket No. **2816-038**

ON PETITION

This is a decision on the request under 37 CFR 3.81(b)[1] to correct the assignee data on the front page of the above-identified patent by way of Certificate of Correction. The request was filed August 5, 2008.

The request is **granted**.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3222. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificate of Correction Branch at (703) 305-8309.

The file is being forwarded to the Certificate of Correction Branch for issuance of the requested Certificate of Correction.

Kenya G. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

[1] See *Official Gazette* of June 22, 2004.

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FORT COLLINS CO 80527-2400

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AUG 25 2008

OFFICE OF PETITIONS

In re Application of :
Naffziger et al. :
Application No. 11/040394 :
Filing or 371(c) Date: 01/21/2005 : ON PETITION
Attorney Docket Number: 200405603-1 :

This is a decision on the petition to revive the application under the unintentional provisions of 37 CFR 1.137(b), filed May 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 18, 2007. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). No reply having been received, the application became abandoned on September 19, 2007.

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 the petition includes (1) the reply; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

A review of the petition reveals that the address appearing on the petition differs from the correspondence address of record. Applicant is advised that, in patented files: requests for changes of correspondence address, powers of attorney, revocations of powers of attorney, withdrawal of attorney and submissions under 37 CFR 1.501: Designation of, or changes to, a fee address, should be addressed to Mail Stop M Correspondence.

The application is being referred to Technology Center Art Unit 2115 for processing of the Amendment/reply filed with the petition in due course.

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

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

CC: CHRISTOPEH R . HARRIS
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44144

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& TIPPERS, P.C.
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA, OK 73102-8820

In re Application of: BICKNELL, et al.
Application No. 11/040,410
Filed: January 21, 2005
For: DETERMINISTIC PREVENTIVE RECOVERY FROM A PREDICTED FAILURE IN A DISTRIBUTED 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 filed July 1, 2005 to make the application special under 37 C.F.R. §102(d) and M.P.E.P. §708.02(VIII): Accelerated Examination. The status letters of December 2, 2005 and April 21, 2006 are acknowledged. The delay in decision on petition is regretted.

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.

The petition filed July 1, 2005 fails to adequately meet requirements (c) and (e) of the criteria set forth above. With respect to requirement (c), a listing of the field of search by **class and subclass** directed to **the invention as claimed** in the application for which special status is required. Neither the statement nor the search information was provided in the instant petition. Note, the indication that "a search has been made by the attorney" is insufficient.

With respect to requirement (e), for applicant's convenience, note 37 CFR § 1.111 (b) and (c) reproduced in part below:

(b) A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section.

(c) .... the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. The applicant or patent owner must also show how the amendments avoid such references or objections.

Applicant's petition fails to provide a "detailed discussion of the references" with the requisite particularity that illuminates the salient prior art issues relative to the claimed subject matter. Petitioner's **cursory treatment** of the references does not detail, with the particularity called for under section (e), the relevancy of the prior art pedagogy in order to sufficiently set forth a case distinguishing the limitations claimed to be patentable in relation to the given reference.

In the discussion of the references cited to be the most closely related in the instant application (see IDS filed January 21, 2005), Petitioner is required to point out (substantively detail) the prior art elements and associations germane to the claims to fully flesh-out the comparison between the referenced prior art and Applicant's claimed features. In addition, a detailed discussion of each cited reference deemed to be most closely related, must be provided. Reference is made to U.S. patent pub. 2003/0182136 (Horton) and U.S. patent 6,760,174 (Forehand). Petitioner has provided no discussion with respect to these two references.

With further respect to the petition filed July 1, 2005, Petitioner underlines language (pages 1-2) in each of claims 1, 8 and 15 in an apparent attempt to identify claim limitations relative to the prior art cited, but makes no specific statement regarding the underlined language and patentability. On page 2, Petitioner states "none of the references of record teach or suggest the claimed apparatus whereby a storage subsystem within a ***distributed storage system*** employs a deterministic preventative ***recovery circuit*** that cooperatively triggers a data recovery program and/or fault tolerance mechanism". On page 3, Petitioner identifies that "None of the references of record teach or suggest the claimed apparatus whereby ***an intelligent recovery system exists within each disc drive***, and the plurality of disc drives exist within a fault tolerant RAID, to optimally select the data preventative recovery mechanism. In fact, all of the references of record are wholly silent in regard to cooperatively using both onboard data recovery sequences and RAID fault tolerance." However, upon close analysis, the language identified by Petitioner above and on pages 2 and 3 of the instant petition does ***not*** correspond to the language of independent claims 1, 8 and 15. Note for instance the phrase "***distributed storage system***" does

not appear in claims 8 or 15, the identified term "***recovery circuit***" does not find antecedent basis in any of the independent claims, and the phrase "***an intelligent recovery system exists within each disc drive***" does not appear to be supported by any of the independent claims.

By failing to identifying specific claim limitations as those limitations that the reference(s) do not show or suggest, the petition fails to discuss the **claimed limitations** with respect to the references in accordance with the requirements of 37 CFR 1.111 (b) and (c) identified above. That is, the petition does not accurately recite language or limitations from the independent claims to properly compare/contrast the claimed invention with respect to the relevant teachings in the prior art in the identified references. The petition must specifically show, for each independent-claim (i.e. claims 1, 8 and 15), specific language that distinguishes over each given reference in order to specify "how the claimed subject matter is patentable over the references."

Accordingly, the Petition to Make Special is **DISMISSED** .

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.

Brian L. Johnson
Quality Assurance Specialist, WG 2110
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/040,410	01/21/2005	Bruce Allen Bicknell	STL12151	1992

7590 10/30/2007

Fellers, Snider, Blankenship, Bailey & Tippers, P.C.
100 North Broadway
Suite 1700
Oklahoma, OK 73102-8820

EXAMINER	
IQBAL, NADEEM	
ART UNIT	**PAPER NUMBER**
2114	

MAIL DATE	DELIVERY MODE
10/30/2007	PAPER

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

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

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& TIPPERS, P.C.
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SUITE 1700
Oklahoma, OK 73102-8820

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OCT 30 2007

TECHNOLOGY CENTER 2100

In re Application of: BICKNELL, et al.
Application No. 11/040,410
Filed: January 21, 2005
For: DETERMINISTIC PREVENTIVE RECOVERY FROM A PREDICTED FAILURE IN A DISTRIBUTED STORAGE SYSTEM

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION
UNDER M.P.E.P. §708.02 (VIII))

This is a response to the renewed petition filed October 17, 2007, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special, originally filed on July 1, 2005, and dismissed on August 17, 2007.

The renewed Petition is **DENIED**.

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.
[items bolded for emphasis]

The renewed petition filed October 17, 2007 fails to adequately meet requirements (c) and (e) of the criteria set forth above. With respect to requirement (c) above, the instant petition fails to submit either a statement that a pre-examination search was made, listing the field of search by class and subclass, etc. or the search logic used to produce the results obtained. As stated in the earlier decision, "Neither the statement nor the search information was provided". In the instant petition, Petitioner merely provides the general methodology that may have been used i.e. "performing KWIC searching on a number of key words associated with the claimed subject matter. The KWIC searches typically start relatively broadly and are iteratively narrowed, such as by increasing the number of search terms and/or limiting the search to the title and/or the abstract, and the like. The results of the KWIC searching empirically provide an initial subgroup of references that provided a reasonable cross-section of art that may be related to the claimed invention." The pre-examination search **must be** directed to the invention as claimed (in the instant application) for which special status is requested. A statement of the general methodology that may have been used to search the claims of the instant application is not sufficient. The specific search terms used as they relate to the claims of the instant application are required. Further, the class/subclass listing on page 4 of the instant petition appears to be a listing of those classes and subclasses in which the cited references deemed to be most closely related "could be compiled after-the-fact" and are not, in fact, those areas in which Petitioner completed a class/subclass search (note Petitioner's remarks at page 2 lines 15-16, i.e. "Applicant did not, for reasons discussed below, search by class and subclass, ... or anything else under etc.". Further, it appears a required search for the claimed subject matter in class 714 subclasses 47, the original classification of the instant application, should have been included in Applicant's search of the claimed invention. This required search area (for the claims of the instant application) was confirmed with an (primary) Examiner in the Art Unit currently assigned this application. Finally, the original petition filed July 1, 2005, specifically indicated that "**All of the references most closely related** to the subject matter encompassed by the claims are of record **and are listed in Form PTO/SB/08A**, which was filed with the application **on January 21, 2005**." A review of this IDS form provides a listing of 14 references including references identified as Forehand (U.S. 6,760,174) and Horton (U.S. 2003/0182136). Although initially identified to be "most closely related" and cited by Applicant, neither (Forehand or Horton) reference appear to have been discussed in the original petition or the instant petition, rendering the record incomplete.

With respect to requirement (e) above, he discussion provided in the instant petition fails to point out how each reference defines over each independent claim. For example, for independent claim 8, of the references deemed most closely related, it is stated that the reference fails to disclose or teach "*a data storage subsystem having a plurality of data storage devices .... predicting a data transfer failure by one of the data storage devices; and analyzing the predicted failure .... to deterministically initiate a preventive recovery routine by a data recovery procedure in the data storage device*". This identification equates to essentially the entirety of the limitations set forth in instant claim 8. Petitioner further states "Accordingly, the most closely related references do not disclose and are inherently incapable of ***predictive error recovery by a storage subsystem within a distributed storage system***. The present embodiments as claimed are patentably distinguishable over the most closely related references because they do not teach or suggest all of the recited features of claim 13." The (bolded italicized) limitation

identified above does not appear to be set forth in claim 8, and the reference to dependent claim 13 is confusing, rendering the record inconsistent and incomplete with respect to at least claim 8.

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 each of the references provided in requirement (d) above, rather than to repeat essentially the entirety of each of the independent claims. The identification must be accurate and consistent with the language set forth in the (independent) claims of the instant application.

Furthermore, it would be difficult to conclude that the pre-examination search was directed to the claimed invention if essentially none of the claimed limitations were found in the prior art deemed "most closely related" by Petitioner.

Accordingly, the renewed Petition to Make Special is **DENIED** since the requirements for special status under MPEP § 708.02(VIII) have NOT been met. The application is being returned to the Examiner's docket to await examination in its proper turn based on its effective filing date. It is noted that a first Office action on the merits was mailed on October 4, 2007.

Brian L. Johnson
Quality Assurance Specialist
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3595

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/040,410	01/21/2005	Bruce Allen Bicknell	STL12151	1992

7590 09/03/2008

Fellers, Snider, Blankenship, Bailey & Tippers, P.C.
100 North Broadway
Suite 1700
Oklahoma, OK 73102-8820

EXAMINER	
IQBAL, NADEEM	
ART UNIT	PAPER NUMBER
2114	

MAIL DATE	DELIVERY MODE
09/03/2008	PAPER

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

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

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Bank One Tower
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

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TECHNOLOGY CENTER 2100

In re Application of: BICKNELL, et al.
Application No. 11/040,410
Attorney Docket No. STL12151
Filed: 01/21/2005
For: DETERMINISTIC PREVENTIVE RECOVERY FROM A PREDICTED FAILURE IN A DISTRIBUTED STORAGE SYSTEM

DECISION ON PETITION FOR SUPERVISORY REVIEW UNDER *37 CFR §1.181*

This is a decision on the petition under 37 CFR § 1.181, filed July 1, 2008, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed April 1, 2008.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

(1) On October 4, 2007, a non-final Office action was mailed. Claims 1-20 were pending. Independent claims 1, 8 and 15 were rejected under 35 USC 102(b) as anticipated by Li (U.S. Pat. No. 6,401,214).

(2) On January 4, 2008, a response to the non-final Office action, in which amendment to pending independent claims 1 and 8, was filed. Independent claim 15 was unamended.

(3) On April 1, 2008, a final Office action was mailed treating pending claims 1-20, and in which independent claims 1, 8 and 15 were now rejected under 35 USC 102(b) as anticipated by Apperley, et al. (US 5,832,204). The Examiner indicated that the second Office action was made final on the basis that "*Applicant's amendment necessitated the new ground(s) of rejection*".

(4) On June 2, 2008, a proposed after final amendment, remarks, four sheets of replacement drawings and an Applicant Initiated Interview Request Form (PTOL-413A) were filed.

(5) On June 16, 2008, an advisory action was mailed indicated that the proposed (after final) amendment would not be entered.

(6) On July 1, 2008, the instant petition was filed, along with a notice of appeal.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the withdrawal of the finality of the April 1, 2008 office action.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

MPEP § 706.07(a) states in part that:
Under present practice, second or any subsequent action on the merits shall be made final, except where the examiner introduces a new ground of rejection ***not necessitated*** by amendment of the application by the applicant, whether or not the prior art is already of record. Furthermore, a second or any subsequent action on the merits in any application or patent undergoing reexamination proceedings will ***not be made final*** if it includes a rejection, on newly cited art ... of any claim not amended by applicant or patent owner in spite of the fact that other claims may have been amended to require newly cited art.

MPEP § 706.07(d) states in part that:
If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

MPEP § 706.07(e) states in part that:
When a final rejection is withdrawn, all amendments filed after the final rejection ***are ordinarily entered.***

CONCLUSION

A review of the prosecution record reveals that the Applicant's amendment filed January 4, 2008 (after the non-final action of October 4, 2007) did not amend independent claim 15 and thus did not necessitate the new grounds of rejection in the second (final) Office action of April 1, 2008. Further, it is noted that the reference to Apperley, et al. used by the Examiner in the final Office action, was not cited on information submitted in an information disclosure statement filed during the period set forth in 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p), as set forth in MPEP 706.07(a), to justify propriety of the final action.

Therefore, for the above stated reasons, the petition to withdraw the finality of the final Office action of April 1, 2008 is **GRANTED**.

The application file is being forwarded to the technology support staff to **WITHDRAW** the finality of the previous Office action and to **ENTER** and **PROCESS** the amendment filed June 2, 2008. The file will then be forwarded to the Examiner for appropriate action and prompt consideration of the response filed June 2, 2008.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.

Jack Harvey, Director
Technology Center 2100
Computer Architecture, Software, and Information Security

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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OCT 0 6 2006

OFFICE OF PETITIONS

In re Application of :
Gregory S. Keller, et al. :
Application No. 11/040,419 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 10592-023002 :

This is a decision on the petition, filed October 4, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED as moot**.

Unfortunately, the petition was not received by the appropriate official for a decision until after October 3, 2006, the date upon which the above-identified application issued as U.S. Patent No. 7,115,274.

The inconvenience caused petitioner in this matter is sincerely regretted. However, petitioner's attention is directed to 37 CFR 1.313(d), which states: "A petition under this section [37 CFR 1.313(c)] 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 referred to the Office of Petitions on October 5, 2006. Further, it is noted that the petition indicates it was signed on October 3, 2006 and the Electronic Acknowledgement Receipt shows a receipt date of "04-OCT- 2006." None of these dates are before the date of issue.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of the instant application into a patent on October 3, 2006. Accordingly, the RCE and the information disclosure statement (IDS) will remain in the above-identified application without further consideration. See 37 CFR 1.97(I). Under the circumstances, no filing fee for the RCE submitted on October 3, 2006 will be charged to counsel's deposit account.

It is noted that the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in 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 matter may be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON P.C.
CITIGROUP CENTER
52ND FLOOR
153 EAST 53RD STREET
NEW YORK, NY 10022-4611

Best Available Copy

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11-14-08

TO SPE OF : ART UNIT 2841

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/040461 Patent No.: 7434328

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. 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: _____

Dean A. Reichard
SPE

2841
Art Unit

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DLA PIPER US LLP
P. O. BOX 9271
RESTON, VA 20195

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APR 16 2008

In re Application of :
Edward Czajka, et al. :
Application No.: 11/040,490 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No.: 358833-P0001 :

This is a decision on the petition, filed April 14, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 19, 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 3677 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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

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WEINGARTEN, SCHURGIN, GAGNEBIN & LEBOVICI LLP
TEN POST OFFICE SQUARE
BOSTON, MA 02109

Mail Date: 04/21/2010

Applicant	: Raymond M. Dunn	: DECISION ON REQUEST FOR
Patent Number	: 7597676	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,492	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: 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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Constellation Law Group, PLLC
P.O. Box 220
Tracyton, WA 98393

Mail Date: 05/12/2010

Applicant	: Edward K.Y. Jung	: DECISION ON REQUEST FOR
Patent Number	: 7643005	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/040,497	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1197** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, DC 20231
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JUL 26 2006

Joseph R. Jordan
2700 Carew Tower
Cincinnati, OH 45202

Art Unit 3765

In re Application of	:	
Frazer et al.	:	
Serial No. 11/040,499	:	DECISION ON PETITION
Filed: January 21, 2005	:	
For: Multiple Horizontal Needle Quilting Machine and Method	:	

In the petition under 37 CFR 1.48(b) filed June 29, 2006, applicant request that Richard Villacis be deleted as an inventor of the above named invention as he is no longer an inventor of the invention now being claimed. Applicant has provided a signed request per 37 CFR 1.33(b) and the appropriate processing fee set forth in 37 CFR 1.17(i).

All requirements set forth in 37 CFR 1.48 have been met by applicants' petition.

The petition is granted.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

Gary L. Welch
Supervisory Patent Examiner (Acting)
Art Unit 3765
(571) 272-4996
(571) 273-4996 fax

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OSHA LIANG L.L.P.
1221 MCKINNEY STREET
SUITE 2800
HOUSTON TX 77010

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MAY 24 2007

OFFICE OF PETITIONS

Patent No. 7,170,216 :
Issued: January 30, 2007 :
Application No. 11/040,502 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 02008/214001 :

This is a decision on the petition, filed, May 8, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is Masayoshi Esashi and that an incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent.

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

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

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

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that Masayoshi Esashi is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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WIGGIN AND DANA LLP
ATTENTION: PATENT DOCKETING
ONE CENTURY TOWER, P.O. BOX 1832
NEW HAVEN, CT 06508-1832

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MAR 2 5 2005

OFFICE OF PETITIONS

In re Application of
Blanchette et al.
Application No. 11/040,511
Filed: January 21, 2005
Attorney Docket No. 102281-300

Decision on Petition

This is a decision on the petition filed March 14, 2005, to accord the above-identified application a filing date of January 21, 2005.

The petition is granted **to the extent indicated below**.

On January 21, 2005, the application was deposited.

On March 3, 2005, the Office of Initial Patent Examination mailed a Notice stating that drawings were not present and that a filing date had not been accorded and the filing date would be the date of receipt of drawings.

Petitioner has not proven the drawings were filed on January 21, 2005:

Petitioner alleges that drawings were deposited on January 21, 2005.

In support, petitioner has submitted a postcard receipt which acknowledges receipt of "Formal Drawings (9 sheets)" on January 21, 2005.[1] Normally, the postcard would serve as prima facie evidence that the Patent and Trademark Office received the application, reviewed all the papers, and verified that each item listed on the postcard was present. However, the evidence indicates that the employee who reviewed the file did not intend to verify the presence of drawings. Specifically, the employee stamped on the front of the postcard, "The PTO did not receive the following listed items(s): drawing."

The employee failed to properly follow Office procedure. Any stamp indicating drawings were missing should have been placed on the side of the postcard that does not contain the mailing address. Per MPEP 503, the employee should have crossed off the drawings line on the postcard and initialed the change. However, evidence that the employee should have stated drawings were missing in another manner does not change the fact that the employee did indicate drawings were missing.

[1] Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self addressed post card properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and place the post card in the outgoing mail. "A post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all items listed thereon by the PTO." M.P.E.P. § 503.

The Official record of what was filed on January 21, 2005, corroborates the employee's indication drawings were missing. Specifically, drawings are not present in the file wrapper.

The drawings filed with the petition will not be entered. If petitioner wishes to add the drawings, a formal amendment should be filed.

A review of the file indicates a filing date should have been assigned even though drawings were not present in the application.

MPEP 601.01(f) states that:

> It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. 113 (first sentence).

This application contains disclosure directed to a process or method. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).[2] In other words, a filing date should have been assigned and a Notice of Omitted Items mailed to applicant.

During examination, if the examiner determines drawings are necessary under 35 USC 113, he may reconsider the filing date issue and have the Office of Initial Patent Examination (OIPE) mail a Notice of Incomplete Application. See MPEP 601.01(f).

In view of the above, the "Notice" mailed March 3, 2005, was mailed in error and is hereby withdrawn.

Petitioner is advised to file a preliminary amendment with the Office prior to the first Office action canceling all references in the specification to the missing Figures. In the alternative, petitioner may seek to add some or all of the figures by amendment. If an amendment is filed adding the missing figures, the amendment will be considered by the examiner for entry of new matter not described in the application as filed. The Office notes that applicant incorporated by reference the content of three prior applications in the second sentence of the specification.

Conclusion:

The petition fee of $400 has not been charged to petitioner's deposit account.

The Office of Initial Patent Examination will process the application with a filing date of January 21, 2005, using only the papers filed on that date. The drawings submitted with the petition will not be entered. In order to address petitioner's concerns, the Office of Initial Patent Examination will be informed that if an item is missing from an application when it is filed, the notation on the postcard should not be placed on the side of the postcard containing the mailing address. In addition, OIPE will be asked to ensure that employees comply with MPEP section 503 which states in part,

> The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items

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[2] MPEP 601.01(g) states that if an application is filed without all of the drawing figure(s) referred to in the specification, a "Notice of Omitted Item(s)," and not a "Notice of Incomplete Application," is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the postcard initialed by the person receiving the items.

Telephone inquiries 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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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

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SEP 18 2006

OFFICE OF PETITIONS

In re Application of :
Daniel O. Burkes ::
Application No. 11/040,512 :
Attorney Docket No. I212.12-0008 :

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

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed January 21, 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 VI: Energy.

The petition is **DISMISSED**

A grantable petition to make an application special under 37 CFR 1.102(c)(2)(ii), MPEP 708.02, Section VI: Energy, must be accompanied by a statement by the applicant, assignee or attorney/agent registered to practice before the Office explaining 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. 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 does not meet the requirements for special status in that there is no showing that the claimed invention materially contributes to the discovery or development of energy sources or the more efficient utilization and conservation of energy resources, as required under category (A) or category (B). Petitioner indicates that the present invention will contribute to the development of energy resources by providing a more durable solution for transporting and manipulating energy resources, however the Petitioner has not shown how the more durable materials for transporting energy resources contribute to development of fossil fuels, nuclear energy, solar energy, etc.

Telephone inquiries concerning this decision should be directed to Mikhail Kornakov at (571) 272-1303 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 1745 for action in its regular turn.

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David A. Bucci
Petitions Examiner
Office of Petitions

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DIRECTORS OFFICE

JUL 17 2006

TECHNOLOGY CENTER 2800

William J. Hone
Fish & Richardson P.C.
Citigroup Center
52nd floor
153 East 58rd Street
New York, New York 10022-4611

In Re Application of: David C. MILLER, Eric BRETSCHNEIDER Randolph Scott BEEMAN, and David M. CHISM Application No.: 11/040,523 Filed: January 20, 2005 For: Method of Lighting for Protection of Sea Turtles	Decision on Petition

This is in response to a petition under 37 C.F.R. 1.48(a) filed May 4, 2006, requesting that the names of two inventors be added.

The instant application was filed on January 20, 2005, with only David C. Miller and Eric Bretschneider named as inventors.

The petition states that the names of Randolph Scott Beeman and David M. Chism were unintentionally omitted because it was not known at the time of filing the application.

Based on the file record as a whole and the facts as set forth above and in the petition, the error in inventorship occurred without deceptive intent and was diligently corrected.

The petition is **GRANTED**.

The application is being forwarded to the technical support staff for the name correction to David C. MILLER, Eric BRETSCHNEIDER, Randolph Scott BEEMAN, and David M. CHISM. The application will then be forwarded to Publications to complete the publication process.

Sandra O'Shea, Supervisor Patent Examiner
Technology Center 2800
(571) 272-2376

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WOMBLE CARLYLE SANDRIDGE & RICE, PLLC
ATTN: PATENT DOCKETING 32ND FLOOR
P.O. BOX 7037
ATLANTA GA 30357-0037

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JUN 0 5 2006

OFFICE OF PETITIONS

Applicant: Walsh
Appl. No.: 11/040,532
Filing Date: January 21, 2005
Title: CARTON BLANK, CARTON AND METHOD OF FORMING THE CARTON
Pub. No.: US 2005/0127150 A1
Pub. Date: June 16, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 16, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

Inquiries relating to this matter may be directed to Mark O. Polutta at (571) 272-7709 (voice).

Mark O. Polutta
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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

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APR 13 2006

OFFICE OF PETITIONS

In re Application of :
Paul Stephen Drzaic et al :
Application No. 11/040,551 :
Filed: January 21, 2005 :
Attorney Docket No. 003424.P070 :

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 January 21, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The petition includes a statement by Arno Allen Penzias et al attesting that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

This matter is being referred to Technology Center AU 2612 for action on the merits commensurate with this decision.

Wan Laymon
Petitions Examiner
Office of Petitions

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P.O. Box 1450
Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11040,555	01/21/2005	Warren M. Farnworth	97-768.6

STEPHEN A GRATTON
THE LAW OFFICE OF STEVE GRATTON
2764 SOUTH BRAUN WAY
LAKEWOOD CO 80228

DATE MAILED: August 13, 2007

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d) filed on August 8, 2007, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

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

- ☐ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☑ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20091103

DATE : November 03, 2009

TO SPE OF : ART UNIT 1621

SUBJECT : Request for Certificate of Correction on Patent No.: 7145039

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

Please complete this form and return with file, within **7** days to:
Certificates of Correction Branch - ST (South Tower) 9A22
Palm location **7590** - Tel. No. (703) 305-8309

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

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

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

Note your decision on the appropriated box.

☒ **Approved** All changes apply.

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

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

Comments:

/DANIEL M SULLIVAN/
Supervisory Patent Examiner.Art Unit 1621

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Hiroshi Aoki	: DECISION ON REQUEST FOR
Patent Number	: 7609282	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,563	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/20/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **931** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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

JUL 13 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of :
Phillip R. Morrow et al :
Serial No.: 11/040,580 : PETITION TO MAKE SPECIAL
Filed: January 21, 2005 :
Attorney Docket No.: AVANIR-149CP1 :

This is in response to the petition filed on June 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

> International terrorism as defined in 18 U.S.C. 2331 includes Aactivities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnaping... The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Applicant meets the requirements of the above section. Therefor the petition is **GRANTED**.

The application will be acted on by the assigned 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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

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

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

11/26/07

Patent No. :7126010
Inventor(s) : Wacker at al.
Issued : 10/24/2007
Title : BENZYLCYCLOALKYL AMINES AS MODULATORS OF CHEMOKINE RECEPTOR ACTIVITY
Atty.doc./File No.

Request for Certificates of Correction

Consideration has been given to your request for the issuance of a Certificate of Correction, for the above – identified patent under the provisions of CFR 1.322.

Inspection of the application for the patent reveals that Claim1, col. 57 line 23 is printed in accordance with the record. Please specify and make font bigger and clearer to understand. Please resubmit certificate of correction again thank you! Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

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

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Cecelia Newman
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

BRISTOL – MYERS SQUIBB COMPANY
PATENT DEPARTMENT
P.O. BOX 4000
PRINCETON, NJ 08543-4000

HR/CBN

UNITED STATES PATENT AND TRADEMARK OFFICE

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

FROMMER LAWRENCE & HAUG LLP
745 FIFTH AVENUE
NEW YORK, NY 10151

Mail Date: 04/21/2010

Applicant	: Tetsujiro Kondo	: DECISION ON REQUEST FOR
Patent Number	: 7605868	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,586	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1309** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
11/040,588	01/20/2005	1725	525	IL-10719B	3	21	2

CONFIRMATION NO. 5481

Eddie E. Scott
P.O. Box 808, L-703
Livermore, CA 94551

CORRECTED FILING RECEIPT

OC000000015905570

Date Mailed: 04/28/2005

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)

Jim J. Chang, San Ramon, CA;
Herbert W. Friedman, Oakland, CA;
Brian J. Comaskey, Walnut Creek, CA;

Assignment For Published Patent Application

The Regents of the University of California

Power of Attorney:

Lafayette Carnahan--20555
Eddie Scott--25220
James Skorich--27594
Alan Thompson--29981
Christopher Horgan--40394

Domestic Priority data as claimed by applicant

This application is a DIV of 09/781,073 02/08/2001 PAT 6,864,459

Foreign Applications

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

Non-Publication Request: No

Early Publication Request: No

** SMALL ENTITY **

Title

High precision, rapid laser hole drilling

Preliminary Class

219

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. 070705

PETER SU
P.O. BOX 366
HALF MOON BAY CA 94019

NOV 18 2005

In re Application of:	:	
Sunkavalli *et al.*	:	
Serial No.: 11/040,633	:	DECISION ON REQUEST TO WITHDRAW
Filed: January 01, 2005	:	FROM RECORD
Attorney Docket No.:	:	

This is a decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 04, 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 Sanjiv Kaul, on behalf of himself. There is no outstanding Office action at this time.

The request is **APPROVED**.

All future communications from the Office will be directed to Law Offices of Peter Su, 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, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: Law Offices of Peter Su
5201 Great America Parkway, Suite 320
Santa Clara, CA 95054

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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FERNANDEZ & ASSOCIATES, LLP
PATENT ATTORNEYS
P.O. Box D
Menlo Park, CA 94025-6204

NOV 23 2005

In re Application of:	:	
Sunkavalli *et al.*	:	CORRECTED
Serial No.: 11/040,633	:	DECISION ON REQUEST TO WITHDRAW
Filed: January 01, 2005	:	FROM RECORD
Attorney Docket No.:	:	

This is a corrected decision on the request to withdraw as attorney/agent of record under 37 C.F.R. § 1.36, filed May 04, 2005.

The request is **DISMISSED** as moot.

A review of the application file record reveals a proper revocation and power of attorney to the attorneys associated with Customer No. 36430 was filed on April 25, 2005. As such, the power of attorney for the attorneys and agents requesting withdrawal has already been revoked. Accordingly, the present request is moot, and must be dismissed.

All future communications from the Office will be directed to Law Offices of Peter Su, 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, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

cc: PETER SU
P.O. Box 366
Half Moon Bay, CA 94019

UNITED STATES PATENT AND TRADEMARK OFFICE

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PETER SU
530 LYTTON AVENUE
SECOND FLOOR
PALO ALTO CA 94301

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JAN 0 4 2008

OFFICE OF PETITIONS

In re Application of	:	
Sunkavalli et al.	:	
Application No. 11/040,633	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. CSWT 1011-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 1, 2007 and December 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

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

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

This matter is being referred to Technology Center 2819 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

COPY MAILED
MAY 26 2006
OFFICE OF PETITIONS

In re Application of	:	
Bjarni Halldorsson, Vineet Bafna	:	
Ross Lippert, Russell Schwartz	:	DECISION ACCORDING STATUS
Francisco De La Vega, Andrew Clark	:	UNDER 37 C.F.R. § 1.47(a)
And Sorin Istrail	:	
Application No. 11/040,652	:	
Filed: January 21, 2005	:	
Attorney Docket No. 5311	:	

This is a decision on the PETITION TO FILE DECLARATION ON BEHALF OF NON-SIGNING INVENTORS WHO REFUSE TO SIGN UNDER 37 CFR § 1.47(a) filed October 5, 2005 (certificate of mailing October 3, 2005).

The petition is **GRANTED**.

The above-identified application was filed on January 21, 2005, with an unexecuted declaration. By Notice to File Missing Parts of Nonprovisional Application mailed March 3, 2005, applicants were required to submit an executed declaration and the surcharge for its late filing. The Notice set a two (2) month time limit for response, with extensions of time obtainable under § 1.136(a).

In response, applicants filed the instant petition (and petition fee), and the required late surcharge. The petition was made timely by an accompanying petition (and fee) for extension of time within the fifth month. Accompanying the petition was a declaration executed by joint inventors Halldorsson, Bafna, Lippert, Schwartz, De La Vega and Clark on behalf of themselves and on behalf of non-signing joint inventor Istrail. Applicants assert that status under 1.47(a) is proper because joint

inventor Istrail has refused to join in the application. By declaration of patent paralegal Cheri Gomez, applicants have shown that a copy of the application papers (specification, including claims, drawings, and oath or declaration) were presented to the non-signing inventor, and that the inventor has, by his conduct in not responding, refused to join in the application. The declaration filed October 5, 2005, has been reviewed and found in compliance with § 1.63. Moreover, the petition fee has been charged to petitioner's Deposit Account, as authorized. The petition includes the last known address of inventor Istrail.

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

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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Sorin Istrail
304 Game Creek Drive
Rockville, MD 20850

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MAY 26 2006
OFFICE OF PETITIONS

In re Application of :
Bjarni Halldorsson, Vineet Bafna :
Ross Lippert, Russell Schwartz :
Francisco De La Vega, Andrew Clark : LETTER
And Sorin Istrail :
Application No. 11/040,652 :
Filed: January 21, 2005 :
Attorney Docket No. 5311 :

Dear Mr. Istrail:

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

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63. However, no action on your part is required for this patent to issue with you as a named inventor.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Nancy Johnson at (571) 272-3219. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733.

Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (571) 272-3150 or 1-800-972-6382 (outside the Washington D.C. area).

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

MILA KASAN, PATENT DEPT.
APPLIED BIOSYSTEMS
850 LINCOLN CENTRE DRIVE
FOSTER CITY, CA 94404

UNITED STATES PATENT AND TRADEMARK OFFICE

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JEFFREY J. HOHENSHELL
MEDTRONIC, INC.
7601 NORTHLAND DRIVE
MINNEAPOLIS, MN 55428

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JAN 11 2006

OFFICE OF PETITIONS

In re Application of :
David E. Francischelli et al :
Application No. 11/040,663 : DECISION ON PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P-10598.02 :

This is a decision on the petition under 37 CFR 1.137(b), filed November 7, 2005, to revive the above-identified application.

The petition is **DISMISSED**.

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

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 8, 2005, which required the submission of (1) an executed oath or declaration and (2) a $130 surcharge fee for the late filing of the executed oath or declaration. 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 timely obtained. Accordingly, the above-identified application became abandoned on May 10, 2005 (May 8, 2005, the due date, was a Sunday).

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 fails to satisfy item (1). In this regard, the executed Declaration fails to set forth the citizenship of each of the inventors. *Note* 35 U.S.C. § 115 and 37 CFR 1.63(a)(3). Accordingly, before revival of this application can be effected, an executed Declaration which sets forth the citizenship of each of the named inventors is required.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement.

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 expired. Therefore, no extension fees are due on a petition for revival. In view thereof, the extension of time fee of $1,590 assessed to petitioner's deposit account will be refunded in due course.

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

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

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

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

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

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions

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UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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JEFFREY J. HOHENSHELL
MEDTRONIC, INC.
7601 NORTHLAND DRIVE
MINNEAPOLIS, MN 55428

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JUL 26 2006

OFFICE OF PETITIONS

In re Application of :
David E. Francischelli et al :
Application No. 11/040,663 : DECISION ON PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. P-10598.02 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed February 13, 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 8, 2005, which required the submission of (1) an executed oath or declaration and (2) a $130 surcharge fee for the late filing of the executed oath or declaration. 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 timely obtained. Accordingly, the above-identified application became abandoned on May 10, 2005 (May 8, 2005, the due date, was a Sunday).

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).

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the submission of the items required by the Notice of March 8, 2005; (2) the $1,500 petition fee; and (3) the required statement of unintentional delay have been received. No terminal disclaimer is required. Accordingly, the submission of the items required by the Notice

of March 8, 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 further pre-examination processing.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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General Motors Corporation
Legal Staff
Mail Code 482-C23-B21
P.O. Box 300
Detroit, MI 48265-3000

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FROM DIRECTOR'S OFFICE

APR 27 2007

TECHNOLOGY CENTER 3600

In re Application of:
Reed, William S. et al
Application No.11/040666
Filed: January 21, 2005
Attorney Docket No: GP-305753

NOTICE OF WITHDRAWAL
FROM ISSUE
UNDER 37 CFR § 1.313(b)

The above-identified application is withdrawn from issue due to unpatentability of one or more claims. See 37 CFR § 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee and publication fee are refundable upon written request. Applicant may also request that the fee be credited to a specified Deposit Account. Applicant may, however, wait until such time as the application is either allowed or abandoned to make such request. If the application is subsequently allowed, upon receipt of a new Notice of Allowance and Issue and Publication Fee Due, applicant may further request that the previously submitted issue fee and publication fee be applied toward payment of the issue fee and publication fee in the amount identified in the new Notice of Allowance and Issue and Publication Fee Due. This request, and any balance due, must be received on or before the due date noted in the new Notice of Allowance and Issue and Publication Fee Due in order to prevent abandonment of the application. If the application is abandoned, applicant may request either a refund or a credit to a specified Deposit Account.

Telephone inquires should be directed to Supervisory Patent Examiner Charles Marmor, at (571)-272-7095.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Kathy Matecki, ACTING

Kathy Matecki, Director
Technology Center 3600

cc: Office of Patent Publication

UNITED STATES PATENT AND TRADEMARK OFFICE

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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS CA 91320-1799

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AUG 2 4 2007

OFFICE OF PETITIONS

In re Application of :
Norman et al. :
Application No. 11/040,668 : DECISION ON PETITION
Filed: 01/21/2005 :
Attorney Docket No. A-875 :
:

This is a decision on the petition filed on 27 June, 2007, under 37 CFR 1.137(b), [1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 19 December, 2006, for failure to timely and properly reply to the non-final Office action mailed 18 September, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time

---

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

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

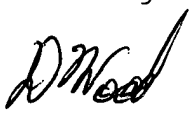
(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 3 April, 2007.

An amendment has been filed as the required reply.

This application is being referred to the Technology Center for further processing.

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



Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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

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OCT 23 2006

OFFICE OF PETITIONS

In re Application of :
David Brust et al :
Application No. 11/040,682 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 5184-38-1 :

This is a decision on the petition, filed October 20, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

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

Petitioner is advised that the issue fee paid on March 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 3661 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy
Petitions Examiner
Office of Petitions

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/29/08

TO SPE OF : ART UNIT 1639 (1600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/040,686 Patent No.: none assigned yet

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

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: Amended Figures 9 and 15 to correct typographical error (i.e. Bio-HA306-318 instead of Bio-HA308-316; Flc-HA306-318 instead of Flc-HA308-316); amended Figure 10 so description matches figure (i.e. A is bottom panel instead of top panel, B is top panel instead of bottom panel); amended specification to correct typographical errors regarding description of Figures 9, 10, and 15 (i.e. HA306-318 instead of HA308-316); amended page 20 description of Figure 14 (i.e. V5 shown in the left panel, not right panel). The corrections were made to correct typographical errors only which are supported by the original disclosure at page 10 (line 17), SEQ ID NO: 1, and Figure 10 for HA306-318 and Figure 14 for V5 data depicted in the left panel.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/James (Doug) Schultz/ 1639

SPE Art Unit

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OFFICE OF PETITIONS

INVITROGEN CORPORATION
C/O INTELLEVATE
P.O. BOX 52050
MINNEAPOLIS MN 55402

In re Application of	:	
Yongliang Chu et al.	:	
Application No. 11/040,687	:	DECISION GRANTING PETITION
Filed: January 21, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. IVGN 207.5	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 5, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 27, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1621 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement and amendment.

Karen Creasy for

Frances Hicks
Petitions Examiner
Office of Petitions

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

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FEB 2 1 2008

In re Application of	:	
Yongliang Chu, t al	:	NOTICE OF WITHDRAWAL
Serial No. 11/040,687	:	FROM ISSUE
Filed: January 21, 2005	:	UNDER 37 CFR 1.313(b)
For: TRANSFECTION REAGENTS	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to a mistake on the part of the Office. See 37 CFR 1.313(b).

The above-identified application is hereby withdrawn from issue.

The issue fee is refundable upon written request. If, however, the application is again found allowable, the issue fee can be applied toward payment of the issue fee in the amount identified on the new Notice of Allowance and Issue Fee Due upon written request. This request and any balance due must be received on or before the due date noted in the new Notice of Allowance in order to prevent abandonment of the application.

Telephone inquiries should be directed to Yvonne Eyler at (571) 272-0871.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

John L. LeGuyader
Director, Technology Center 1600

Invitrogen Corporation
C/O Intellevate
P.O. Box 52050
Minneapolis, MN 55402

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MAY - 9 2005

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

In re Application of	:
James G. Holwerda, et al.	:
Serial No.: 11/040,689	: PETITION TO MAKE SPECIAL
Filed: January 21, 2005	:
Attorney Docket No.: 021548-000110US	:

This is in response to applicants' petition filed April 06, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant. No fee is required for this petition.

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission to the general Office facsimile number.

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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COLOPLAST A/S
Attention: Corporate Patents
Holtedam 1
DK-3050 Humlebaek,
DENMARK

Mail Date: 06/11/2010

Applicant	: Patrice Suslian	: DECISION ON REQUEST FOR
Patent Number	: 7621864	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/040,698	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1344** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Kevin Lynn Wildenstein
Southwest Intellectual Property Services, LLC
Suite 8
6700-B Jefferson NE
Albuquerque NM 87109

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OCT 1 0 2006
OFFICE OF PETITIONS

In re Application of
HOPKINS, et al.
Application No. 11/040,709
Filed: January 20, 2005
Attorney Docket No. SPECTRA VIEW

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 29, 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 files associated with this matter are being transferred to the law firm identified below," are not appropriate since it 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.

A Review of the file discloses that a non-final Office action was mailed on July 26, 2006. To date, there is no indication that a reply to the Office action of July 26, 2006 has been received. A response is due by January 26, 2007.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: Caesar Rivise Bernstein Cohen & Pokotilow, Ltd.
Attn: Stanley H. Cohen
I1635 Market Street, 11th Floor
Philadelphia, PA 19103-2212

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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

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AUG 0 1 2005

OFFICE OF PETITIONS

In re Application of :
Albrecht et al. :
Application No. 11/040,711 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. END-874DIV1 :

This is a decision on the petition filed May 5, 2005, requesting entry of 7 sheets of drawings filed on May 5, 2005.

The petition is **dismissed**.

On January 21, 2005, the instant application was filed with incorrect drawings. A Notice of Omitted Items in a Nonprovisional Application was mailed on March 7, 2005. It stated that a filing date of January 21, 2005, had been accorded and gave petitioner three options:

(1) File a petition, petition fee, and evidence establishing that the missing Figures were part of the application submitted to the PTO.
(2) File a petition, petition fee, the drawings, and request a filing date as of the date that the petition and missing Figure(s) are submitted.
(3) Accept the application as deposited.

Petitioner apparently has chosen option (3).

The petition does not state that the drawings submitted on May 5, 2005, were present at the time the original application was submitted. Petitioner does not request a filing date of May 5, 2005 (the date the drawing was supplied). Instead, petitioner simply seeks to amend the application to include the drawings filed on May 5, 2005. However, no petition is necessary for that purpose. New drawings may be entered by an examiner without petition so long as the new drawings contain no new matter. See MPEP 608.02(a).

The drawing(s) filed with the petition are withdrawn and will not be entered or used during the prosecution of this application. However, petitioner may resubmit the drawings as part of a formal preliminary amendment and such an amendment will be considered by the examiner for entry of new matter not described in the application as filed.

The original application papers will include only those application papers present on the date of deposit.

Since the present petition was not necessitated by any error on the part of the Office, the petition fee will not be refunded.

The Office of Initial Patent Examination will continue to process the application with a filing date of January 21, 2005, using only the papers filed on January 21, 2005.

Telephone inquiries 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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MILBANK, TWEED, HADLEY & MCCLOY LLP
1 CHASE MANHATTAN PLAZA
NEW YORK NY 10005-1413

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SEP 26 2005

OFFICE OF PETITIONS

In re Application of :
Neiman et al. :
Application No. 11/040,715 : DECISION ON PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 36827.02521 :

This is a decision on the petition filed August 25, 2005, which is being treated as a petition under 37 CFR §1.78 (a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §119(e) for the benefit of prior filed provisional application no. 60/355,274 set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

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

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

The instant petition does not comply with item (1).

A reference to add the above-noted, prior filed application in the amendment to the specification has been filed with the instant petition. However the amendment is not acceptable as drafted, because it reads as if application no. 11/040,715 filed January 21, 2005 is claiming benefit to provisional application no. 60/355,274 filed February 8, 2002 which is beyond the twelve month filing date of the prior filed provisional application.

Accordingly, before the petition under 37 CFR 1.78 (a)(6) can be granted a substitute amendment properly referencing the provisional benefit claim is required.

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

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

Any inquiries concerning this decision may be directed to Charlema R. Grant at (571) 272-3215.

Frances Hicks
Petitions Examiner
Office of Petition

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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
11/040,747	01/21/2005	2822	1000	1175/223	5	12	2

CONFIRMATION NO. 3332

CORRECTED FILING RECEIPT

46852
LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES, CA 90071

OC000000016389208

Date Mailed: 06/27/2005

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)

Jr-Hong Chen, Jhudong Township, TAIWAN;
Gwo-Long Lin, Hsinchu City, TAIWAN;
Chih-Fang Chen, Chu-Nan Chen, TAIWAN;

Assignment For Published Patent Application

Toppoly Optoelectronics Corp.

Power of Attorney: The patent practitioners associated with Customer Number **46852**.

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 93104404 02/23/2004

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/040,747

Projected Publication Date: 08/25/2005

Non-Publication Request: No

Early Publication Request: No

Title

Method of an array of structures sensitive to ESD and structure made therefrom

Preliminary Class

438

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

GRANTED

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

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

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject

matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/040,753	01/21/2005	2672	1000	1176/231	7	16	3

CONFIRMATION NO. 3344

CORRECTED FILING RECEIPT

OC000000016324991

46852
LIU & LIU
444 S. FLOWER STREET, SUITE 1750
LOS ANGELES, CA 90071

Date Mailed: 06/20/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Chia-Ching Chu, Yonghe City, TAIWAN;
Li-Sen Chuang, Penghu Hsien, TAIWAN;
Chih-Cheng Chan, Taipei City, TAIWAN;

Assignment For Published Patent Application

Toppoly Optoelectronics Corp.

Power of Attorney:

Wen Liu--32822
David Liu--43755
Jason Truong--53704

Domestic Priority data as claimed by applicant

Foreign Applications

TAIWAN 93110337 04/14/2004

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/040,753

Projected Publication Date: 10/20/2005

Non-Publication Request: No

Early Publication Request: No

Title

Pixel structure

Preliminary Class

345

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof

unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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TEXAS INSTRUMENTS INCORPORATED
P.O. BOX 655474, M/S 3999
DALLAS, TX 75265

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APR 0 9 2008

OFFICE OF PETITIONS

In re Application of :
Sam Brandon Sandbote :
Application No. 11/040,761 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. TI-37732 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 25, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed January 30, 2007, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 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 an amendment after non-final, (2) the petition fee of $1500.00, and (3) an adequate statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the petition is being construed as the statement required by 37 CFR 1.137(b)(3). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the petition.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2825 for appropriate action by the Examiner in the normal course of business on the reply received September 25, 2007.

Andrea Smith
Petitions Examiner
Office of Petitions

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MAIL

APR 26 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Steven Stewart
Ste 1000
2601 Elliott Ave
Seattle WA 98121

In re Application of :

BRATTON, TIMOTHY ROBERT :
Application No. 11/040,787 : DECISION ON PETITION
Filed: January 20, 2005 : TO MAKE SPECIAL
For: **DIGITAL AUDIO AND VIDEO PLAYBACK WITH PERFORMANCE COMPLEMENT TESTING** :

This is a decision on the petition filed March 22, 2005, under 37 CFR §1.102(d) to make the application special and treated as pursuant to MPEP §708.02, section II (Infringement).

A grantable petition under 37 CFR §1.102(d) and MPEP §708.02, section II (Infringement), must be accompanied by the required fee and a statement alleging:

(1) that there is an infringing device or product actually on the market or method in use;
(2) 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
(3) 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. Further, Applicant must provide a copy of each of the references deemed most closely related to the subject matter encompassed by the claims if the references are not already of record.

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 is being forwarded to the examiner for expedited prosecution.

Kenneth A. Wieder
Special Program Examiner
Technology Center 2600
Communications

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OFFICE OF PETITIONS

MICHAEL WARD
MORRISON AND FOERSTER, LLP
425 MARKET STREET
28TH FLOOR
SAN FRANCISCO, CA 94105

In re Application of :
Peter Bakis, et al. :
Application No. 11/040, 810 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. 11767-019-999 : 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 3, 2006

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 21, 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 undersigned at 571-272-1642.

April Wise

April M. Wise
Petitions Examiner
Office of Petitions

cc: ADRIANE M. ANTLER, PH.D.
JONES DAY
222 E. 41ST STREET
NEW YORK, NY 10017-6702

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

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AUG 0 1 2006

OFFICE OF PETITIONS

In re Application of :
Sprakler, et. al :
Application No. 11/040,815 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. 017761-004300US : 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 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Mark D. Barrish on behalf of all attorneys of record who are associated with customer No. 34205.

All attorneys/agents associated with the Customer Number 20350 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. All future communications from the Office will be directed assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Solarant Medical Inc.
2675 Collier Canyon Road
Livermore, CA 94550

cc: Oppeheimer Wolff & Donnelly, LLP
45 South Seventh Street
Suite 3300
Minneapolis, MN 55402

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 3/13/06

Paper No.: —

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 6969530B2 Patent No.: 10/040,820

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: _____

_____

_____

_____

_____

_____ 1711

SPE Art Unit

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311 SOUTH WACKER DRIVE
53RD FLOOR
CHICAGO, IL 60606

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of	
Gustafson, et al.	DECISION GRANTING STATUS
Application No. 11/040,821	UNDER 37 CFR 1.47(a)
Filed: January 21, 2005	
Atty. Dkt. No.: 3865 P 006	
For: METHOD AND SYSTEM FOR PROVIDING SEARCH INFORMATION VIA A COMMUNICATIONS NETWORK	

This decision is in response to the petition under 37 CFR 1.47(a), filed September 8, 2005.

The petition is **GRANTED**.

Petitioner has shown that inventor Carol Curtin has refused to execute the declaration for the above-identified application after having been presented with the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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CAROL CURTIN
130-20 235TH STREET
ROSEDALE, NY 11422

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SEP 22 2005

OFFICE OF PETITIONS

In re Application of :
Gustafson, et al. :
Application No. 11/040,821 : LETTER
Filed: January 21, 2005 :
Atty. Dkt. No.: 3865 P 006 :
For: METHOD AND SYSTEM FOR :
PROVIDING SEARCH INFORMATION :
VIA A COMMUNICATIONS NETWORK :

Dear Madam:

You are named as an inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 C.F.R. § 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost as per 37 C.F.R. § 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 C.F.R. § 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3205. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Telephone inquiries regarding this matter should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LUMEN INTELLECTUAL PROPERTY SERVICES, INC.
2345 YALE STREET, 2ND FLOOR
PALO ALTO, CA 94306

In re Application of
Kevin C. Baxter, et al.
Application No. 11/040,823
Filed: January 21, 2005
Attorney Docket No. SSH-107/US

ON PETITION

This is a decision on the petition, filed October 17, 2006, under the provisions of 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice), mailed April 7, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on June 8, 2005. A Notice of Abandonment was mailed on January 5, 2006.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the filing fees and surcharge; (2) the petition fee of $750; and (3) a proper statement of unintentional delay.

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. Since, no extension of time fees are due on a petition for revival, the $1,080 extension fees submitted with the petition are being refunded to counsel's credit card.

The application is being referred to the Office of Initial Patent Examination (OIPE) for further processing.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to OIPE processing should be directed to their hotline at (571) 272-4000.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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	: Manish Kothari	: DECISION ON REQUEST FOR
Patent Number	: 7630123	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,824	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **492** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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FITCH EVEN TABIN AND FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO IL 60603-3406

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OFFICE OF PETITIONS

In re Application :
Pokusa, et al. :
Application No. 11/040,825 : PATENT TERM ADJUSTMENT
Filed: January 21, 2005 :
Dkt. No.: 77109 :

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 5, 2008. The application for patent term adjustment was timely filed prior to payment of the issue fee.

The Determination of Patent Term Adjustment under 35 USC 154(b) was mailed September 5, 2008. Applicants argue that the application is entitled to an additional adjustment of 421 days pursuant to 35 USC 154(b).

Applicants contest the adjustment insofar as it relates to the Office's failure to issue the patent within three years of the filing date of the application pursuant to 37 CFR 1.703(b) in view of Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

To the extent that this application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is ordinarily required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, 37 CFR 1.703(b). It is noted that at the time of this decision, the patent has not issued.

Applicants are given **TWO (2) MONTHS** from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent

within 3 years. A copy of this decision should accompany the request. Applicants may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

With respect to the over 3 year calculation, rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should 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

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JUL 12 2005

TECHNOLOGY CENTER 3600

SEED INTELLECTUAL PROPERTY
LAW GROUP PLLC
701 FIFTH AVE,
SUITE 6300
SEATTLE, WA 98104-7092

In re application of : **DECISION ON PETITION**
Ronald L. Terrel, et al. : **TO MAKE SPECIAL**
Application No. 11/040,828 : **(APPLICANT'S AGE)**
Filed: January 20, 2005 :
For: METHOD AND SYSTEM FOR CONTAINMENT, CAP FOR SOLID WASTE CONSTRUCTED OF FOR SOLID WASTE CONSTRUCTED OF MODIFIED ASPHALT

This is a decision on the renewed petition submitted on June 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 declaration signed by Ronald L. Terrel indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED**.

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dcg: 6/17/05

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TECHNOLOGY CENTER 3600

SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE
SUITE 6300
SEATTLE, WA 98104-7092

In re application of :
Ronald L. Terrel et al. :
Application No. 11/040,828 :
Filed: January 20, 2005 :
For: METHOD AND SYSTEM FOR CONTAINMENT :
SUCH AS A CONTAINMENT CAP FOR SOLID :
WASTE CONSTRUCTED OF MODIFIED :
ASPHALT :

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE)

This is a decision on the petition submitted on June 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 declaration signed by Mr. Terrel indicating that he is at least 65 years of age.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED** .

Kenneth J. Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/dew: 07/11/05

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
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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
11/040,829	01/21/2005	2173	0.00	915-005.147	4	26	8

CONFIRMATION NO. 9429

CORRECTED FILING RECEIPT

OC000000015622064

004955
WARE FRESSOLA VAN DER SLUYS &
ADOLPHSON, LLP
BRADFORD GREEN BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Date Mailed: 04/01/2005

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)

Mikko Makela, Residence Not Provided;

Assignment For Published Patent Application

Nokia Corporation

Power of Attorney: None

Domestic Priority data as claimed by applicant

Foreign Applications

FINLAND 20040086 01/22/2004

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/040,829

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

Displaying a web page in a browser window and a method for handling a web page

Preliminary Class

715

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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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

Mail Date: 04/21/2010

Applicant	: Mikko Makela	: DECISION ON REQUEST FOR
Patent Number	: 7581174	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,829	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **411** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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PALATIN TECHNOLOGIES, INC.
4-C CEDAR BROOK DRIVE
CEDAR BROOK CORPORATE CENTER
CRANBURY, NJ 08512

Mail Date: 04/20/2010

Applicant	: Shubh D. Sharma	: DECISION ON REQUEST FOR
Patent Number	: 7655658	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,838	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1024** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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STANZIONE & KIM, LLP
919 18TH STREET, N.W.
SUITE 440
WASHINGTON DC 20006

MAILED

JUN 10 2010

OFFICE OF PETITIONS

In re Application of :
Robin Dua :
Application No. 11/040,847 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 701-1002 :

This is a decision in response to the petition, filed April 20, 2010, 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 November 28, 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 February 29, 2009. A Notice of Abandonment was mailed on November 12, 2009. On April 20, 2010, the present petition was filed, including, *inter alia*, a 3-month petition for extension of time.

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 extension of time fee submitted with the petition on April 20, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's credit card.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2444 for appropriate action by the Examiner in the normal course of business on the amendment received April 20, 2010.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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CHRISTIE, PARKER & HALE, LLP
PO BOX 7068
PASADENA, CA 91109-7068

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SEP 17 2008

In re Application of	:	
Amit PINHASY	:	
Application No. 11/040,901	:	DECISION ON PETITION
Filed: January 21, 2005	:	TO WITHDRAW
Attorney Docket No. 54130/DMC/S1150	:	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 15, 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 David J. Steele on behalf of all attorneys of record associated with Customer Number 23363. All attorneys of record associated with Customer Number 23363 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

In order to request or take action in a patent matter, the assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, a Statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (*e.g.*, copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (*e.g.*, reel and frame number).

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-6735.

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: AMIT PINHASY
3100 SOUTH SUSAN STREET,
SANTA ANA, CA 92704-6437

cc: SHONFELD'S (USA), INC.
2850 RED HILLS AVENUE, SUITE 150
SANTA ANA, CA 92705

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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

Mail Date: 04/20/2010

Applicant	: Mark S. Kressin	: DECISION ON REQUEST FOR
Patent Number	: 7581216	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/040,902	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **977** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/040,905	01/21/2005	David Klaffenbach	200403808-1	3023

7590 05/07/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
NGUYEN, HOANG M	

ART UNIT	PAPER NUMBER
3748	

NOTIFICATION DATE	DELIVERY MODE
05/07/2008	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: 05/12/2008 NFARMER
01731/2005 MBELETE1 00000055 082025 11040905
02 FC:1111 500.00 CR
04 FC:1201 1800.00 CR
05 FC:1202 2900.00 CR

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Keith D. Parr
Lord, Bissell & Brook LLP
111 South Wacker Drive
Chicago, IL 60606

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OCT 1 0 2006

OFFICE OF PETITIONS

In re Application of :
SCHRAMM, et al. :
Application No. 11/040,953 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. 7677200-0027 : 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 2, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by James H. Wynn on behalf of himself. James H. Wynn has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

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ORUM & ROTH LLC
53 WEST JACKSON BLVD.
CHICAGO, IL 60604

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SEP 28 2007

OFFICE OF PETITIONS

In re Patent No. 7,188,518 :
Issue Date: March 13, 2007 :
Application No. 11/040,956 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 14065 :

This is a decision on the petition filed April 19, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to add assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

UNITED STATES PATENT AND TRADEMARK OFFICE

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TAYLOR & AUST, P.C.
ILLINOIS TOOL WORKS INC.
142 S. MAIN ST
P.O. BOX 560
AVILLA, IN 46710

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MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of
Hieyoung W. Oh, et. al.
Application No. 11/040,975
Filed: January 21, 2005
Attorney Docket No. 13838.01

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed November 25, 2008, to revive the above-identified application.

The application became abandoned for failure to file a response to the Restriction/Election Requirement mailed on January 23, 2008. A Notice of Abandonment was mailed September 3, 2008

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election; (2) the petition fee of $1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

The Power of Attorney and Correspondence Address Indication Form filed on November 25, 2008 has been accepted and made of record.

This application file is being referred to Technology Center Art Unit 1791 for appropriate action by the Examiner in the normal course of business on the response received with the present petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/040,975	01/21/2005	Hieyoung W. Oh	13838.01

CONFIRMATION NO. 4868

POA ACCEPTANCE LETTER

48494
TAYLOR & AUST, P.C.
ILLINOIS TOOL WORKS INC.
142 S. MAIN ST
PO BOX 560
AVILLA, IN 46710

Date Mailed: 03/30/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/25/2008.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

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In re Application of
Leonard Charles Cudzilo

Application No. 11040982

Filed: January 21,2005

Attorney Docket No. 04-100

:
:
:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 13-NOV-2008 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Donald W. Meeker
Patent Agent
924 East Ocean Front #E
Newport Beach CA 92661

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of :
Santa Holguin Lawrence :
Application No. 11/040,992 : DECISION ON PETITION
Filed: January 20, 2005 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 8, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 28, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 29, 2006. The Notice of Abandonment was mailed August 10, 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 $770, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571)272-2991.

This application is being referred to Technology Center AU 3677 for appropriate action by the Examiner in the normal course of business on the reply received

Chris Bottorff
Petitions Examiner
Office of Petitions

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AMGEN INC.
MAIL STOP 28-2-C
ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of :
Mghele Ncube et al. :
Application No. 11/040,995 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. A-889 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 14, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply to the Notice of Non-Compliant Amendment, mailed May 29, 2007, which set a shortened statutory period for reply of one month or thirty (30) days, whichever is longer. No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is June 30, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

The Request for Continued Examination (RCE) is being treated as an amendment in response to the Notice of Non-compliant Amendment, mailed May 29, 2007, and the Non-final office action mailed October 2, 2006. The last office action is not a final action under 37 CFR 1.113, and therefore the filing of an RCE in the present application is premature in that prosecution is not closed under the meaning of 37 CFR 1.114 (b). Therefore, the RCE fee, $810, is being refunded to applicant's Deposit Account.

Telephone inquiries concerning this decision should be directed to Shelley Clement at (571)272-6052 or in her absence to the undersigned at (571)272-7099.

This application is being referred to Technology Center AU1625 for appropriate action by the Examiner in the normal course of business on the amendment submitted.

for David Bucci
Petitions Examiner
Office of Petitions

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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD NJ 07090

In re Application of	:	
Tenembaum, et al.	:	
Application No. 11/041,001	:	DECISION ON PETITION
Filed: January 21, 2005	:	TO WITHDRAW
Attorney Docket No. PORRAN 3.0-004	:	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 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 Jeffrey S. Dickey on behalf of all attorneys of record who are associated with customer No. 00530.

All attorneys/agents associated with the Customer Number 00530 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 Samuel S. Tehembaum at the address indicated below.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor 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). The power of attorney filed on June 6, 2005 does not include one of the above two options.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Samuel S. Tenembaum
Ediflcio Centro Lafayette
Calle 24 Esquina 21
1 Piso 104
Punta Del Este 104
Uruguay

cc: Mr. Daniel Rainer
Porto Ranelli, S.A., c/o United Virtualities, INC
116 West 23rd Street
Suite 500
New York, NY 10011

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OFFICE OF PETITIONS

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of :
Tenembaum, et al. :
Application No. 11/041,002 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. 04224/01200728-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 May 9, 2006.

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 24, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: Daniel Rainer
116 West 23rd Street
New York, NY 10011

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/18/08

TO SPE OF : ART UNIT 2419

SUBJECT : Request for Certificate of Correction for Appl. No.: 11041005 Patent No.: 7352469 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

703-308-9390 ext. _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☒ Approved — All changes apply.
- ☐ Approved in Part — Specify below which changes do not apply.
- ☐ Denied — State the reasons for denial below.

Comments: Approved.

/GJT/ SPE AU 2877

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE Art Unit

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KUO-CHEN LIU
235 CHUNG - HO
BOX 8-24
TAIPEI TW TAIWAN

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SEP 26 2007

OFFICE OF PETITIONS

In re Application of
Kuo-Chien Liu
Application No. 11/041,024
Filed: January 24, 2005
Attorney Docket No. J5P5004-GFP-942994

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed June 1, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before July 21, 2006. A Notice of Abandonment was mailed on August 22, 2006. On June 1, 2007, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the $700 issue fee and the $300 publication fee; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

The application is being referred to Publishing Division 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

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE, SOUTH
ISELIN, NJ 08830

Mail Date: 05/07/2010

Applicant	: Clemens Dinges	: DECISION ON REQUEST FOR
Patent Number	: 7668910	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/041,031	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1435** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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JUN 27 2005

TECHNOLOGY CENTER 3600

Law Offices of John D. Gugliotta, PE, Esq.
202 Delaware Building
137 South Main Street
Akron, OH 44308

In re application of : **DECISION ON PETITION**
Bill J. Renfro : **TO MAKE SPECIAL**
Application No. 11/041,037 : **(APPLICANT'S AGE)**
Filed: January 24, 2005 :
For: RISER SUPPORT CLAMP FOR PIPE RISER OR CONDUIT

This is a decision on the petition submitted on January 24, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the accelerated examination procedure set forth in MPEP 708.02, Section IV: Applicant's Age.

The petition is **GRANTED**.

An application may be accorded special status upon the filing of a petition providing evidence showing that the applicant is at least 65 years old. Such a showing may be provided by evidence such as a birth certificate or a statement from the applicant.

The evidence submitted with the petition is a declaration signed by Bill J. Renfro 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: 6/17/05

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,067	01/21/2005	Yoshio Kimura	10002884US01	4670

34904 7590 10/22/2009

CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE, CA 92618-3731

EXAMINER	
GARCIA, GABRIEL I	

ART UNIT	PAPER NUMBER
2625	

NOTIFICATION DATE	DELIVERY MODE
10/22/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

sivon.kalminov@cda.canon.com
marlene.klein@cda.canon.com
IPDocketing@cda.canon.com

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CANON U.S.A. INC. INTELLECTUAL PROPERTY DIVISION
15975 ALTON PARKWAY
IRVINE CA 92618-3731

In re Application of	:	
KIMURA, YOSHIO et al.	:	DECISION ON REQUEST TO
Application No. 11/041,067	:	PARTICIPATE IN PATENT
Filed: January 24, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 10002884US01	:	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) program and the petition under 37 CFR 1.102(d), filed July 24, 2009, to make the above-identified application special.

The request and petition are **DISMISSED AS MOOT**.

A grantable request to participate in the PPH 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 program and petition are dismissed as moot as the examination of the above-identified application has begun. An Office Action was mailed on August 4, 2009.

Telephone inquiries concerning this decision should be directed to Doris To at 571-272-7629.

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.

/Doris To/

_____

Doris To
Quality Assurance Specialist
Technology Center 2600
Communications

DZ

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KILPATRICK STOCKTON LLP
1001 WEST FOURTH STREET
WINSTON-SALEM, NC 27101

Mail Date: 07/21/2010

Applicant	: Po-Ying Chan-Hui	: DECISION ON REQUEST FOR
Patent Number	: 7648828	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/041,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **955** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Workman Nydegger
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City, UT 84111

Mail Date: 04/21/2010

Applicant	: Reza Jalili	: DECISION ON REQUEST FOR
Patent Number	: 7593870	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/14/2005	: 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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IRENE HU
2033 RALSTON AVE., PMB 146
BELMONT CA 94002

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OFFICE OF PETITIONS

In re Application of :
Ji Zhang et al. :
Application No. 11/041,079 : ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 24990-038 :

This is a decision on the petition filed February 16, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on May 25, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed March 24, 2005, which set a two (2) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed December 7, 2005.

The filing of the response to the Notice to File Missing Parts mailed March 24, 2005 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
Senior Petitions Attorney
Office of Petitions

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Stolowitz Ford Cowger LLP
621 SW Morrison St
Suite 600
Portland, OR 97205

Mail Date: 04/21/2010

Applicant	: Hain-Ching Liu	: DECISION ON REQUEST FOR
Patent Number	: 7643480	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1123** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
100 GALLERIA PARKWAY, NW
STE 1750
ATLANTA GA 30339-5948

In re Application of	:
Gang Bao et al	:
Serial No.: 11/041,103	: PETITION DECISION
Filed: January 21, 2005	:
Attorney Docket No.: 820701-1195	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 9, 2007. 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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Dan Cary Johnson
P.O. Box 148
West Jefferson, N.C. 28694

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Director's Office
Group 3700

In re application of
Dan Cary Johnson

Serial Number: 11/041,112
Filed: January 24, 2005

DECISION ON PETITION TO MAKE SPECIAL UNDER 37 CFR. 1.102(c)

For: **POWER LIFTING TOILET CHAIR**

This is a decision on the petition filed on October 27, 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: 11/02/05

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Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Drive
Chicago IL 60606

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JAN 10 2007

OFFICE OF PETITIONS

In re Application of :
Takahiro Sasaki et al. :
Application No. 11/041,127 : DECISION GRANTING PETITION
Filed: January 21, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 2803.72304 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 5, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 8, 2006 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

A credit of $70 will made to your deposit account on record due to overpayment of the petition fee.

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2871 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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JUN 09 2010

OFFICE OF PETITIONS

JOHN LEZDEY & ASSOCIATES
SUITE 118
2401 WEST BAY DRIVE
LARGO, FL 33770

In re Application of :
Hans Goran Martin :
Application No. 11/041,128 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. 3093-1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 20, 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 reply to a non-final Office action, mailed March 13, 2007, which set a shortened statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 14, 2007. A Notice of Abandonment was mailed on December 13, 2007. On April 20, 2010, the present petition was filed, along with a Revocation and New Power of Attorney.

Petitioner should note that the Revocation and New Power of Attorney filed April 20, 2009, has not been accepted, as it is filed on behalf of the assignee and does not include an appropriate statement under 37 CFR 3.73(b). However, in accordance with 37 CFR 1.34(a), the signature of Christopher P. Bruenjes 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. However, if Mr. Bruenjes 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 petitioner, all future correspondence regarding this application file will be directed solely to the address of record.

Further, a grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982

U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Director may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over two years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 14, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as John Lezdey & Associates were the counsel of record at the time of abandonment, they should explain why this application became abandoned while under their control. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), and whoever else was involved with this application at the time of abandonment. Further, statements are required from John Lezdey & Associates and any responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action.

See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). *See* MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. *See* H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. *See* Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over two years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S.

Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

Further correspondence with respect to this matter should be delivered through one of the following mediums:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

By Internet: EFS-Web[1]

[1] www.uspto.gov/ebc/efs help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: CHRISTOPHER P. BRUENJES
1500 K STREET N.W.
WASHINGTON, DC 20005-1209

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PROCOPIO, CORY, HARGREAVES & SAVICH, LLP
530 B Street, Suite 2100
San Diego, CA 92101-4469

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In re Application of :
James Yuran :
Application No. 11/041,138 : DECISION ON PETITION
Filed: September 2, 2005 : TO WITHDRAW
Attorney Docket No. 112331-001.UTL : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 02, 2005

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because The 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, do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Charles Smoot 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

cc: Gary Eastman
707 Broadway, Suite 1800
San Diego, CA 92101

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OFFICE OF PETITIONS

MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO CA 94306

In re Application of :
LACAPRA, Francesco et al. :
Application No. 11/041,147 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. **60973-5001-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 February 02, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morgan, Lewis & Bockius, LLP has been revoked by the assignee of the patent application on February 14, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Teri Williams
Petitions Examiner
Office of Petitions

cc: **Customer No. #02101**
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/041,147	01/21/2005	Francesco Lacapra	60973-5001-US

CONFIRMATION NO. 5476

OC000000023295776

2101
BROMBERG & SUNSTEIN LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Date Mailed: 04/09/2007

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2007.

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.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
ATTORNEY/APPLICANT COPY

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/041,147	01/21/2005	Francesco Lacapra	60973-5001-US

CONFIRMATION NO. 5476

OC000000023295771

24341
MORGAN, LEWIS & BOCKIUS, LLP.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL
PALO ALTO, CA 94306

Date Mailed: 04/09/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 02/14/2007.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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Paper No.

Sandra Odham Myskowski
1016 Baker Road
Sinking Spring PA 19608

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MAY 0 5 2008

OFFICE OF PETITIONS

In re Application of :
Sandra Odham Myskowski : DECISION ON PETITION
Application No. 11/041,162 :
Filed: January 24, 2005 :
Title: FIND IT FAST, LOCATE AN:
ITEM IN A STORE OR FACILITY :

This is a decision on the "Petition to Withdraw Holding of Abandonment Based on Evidence That A Reply was Timely Mailed or Filed" filed November 14, 2006. The petition was recently forwarded to the undersigned for consideration.

The petition under § 1.181 is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice of Non-Compliant Amendment mailed April 24, 2006. A non-final Office action was mailed on October 20, 2005. This Office action set a three-month shortened statutory period for reply, with extensions of time obtainable under § 1.136(a). On February 18, 2006, applicant filed a response, made timely by a petition and extension of time for response within the first month. However, this response was considered non-compliant and by notice mailed April 24, 2006, applicant was given one month to file a response. No response was considered received. The application became abandoned effective May 25, 2006. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

On November 14, 2006, applicant filed the instant petition. Therein, applicant asserts that a response to the notice of non-compliant amendment was timely filed on May 9, 2006. Applicant

submits a copy of the response, including a separate certificate of mailing.

37 CFR 1.8(b) provides that:

In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:

> (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;
>
> (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
>
> (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.

On instant petition, petitioner has satisfied the requirements of 1.8(b) to have the response considered timely filed by virtue of the certificate of mailing dated May 9, 2006. The petition included a copy of the response and a copy of the USPS delivery confirmation and USPS postal receipt. The response as resubmitted includes a separate paper containing a certificate of mailing dated May 9, 2006. (It is noted that with applicant's response filed February 18, 2006, applicant submitted a separate certificate of mailing in the same manner.) It is suggested that applicant place the certificate of mailing on the paper being filed rather than as a separate paper. By doing so, there will be little question that the certificate of mailing was originally presented on the correspondence as filed. In this instance, applicant attests to the mailing of the response on May 9, 2006.

Considering all of the evidence, it is concluded that withdrawal of the holding of abandonment is warranted.

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 3625 has been advised of this decision. The application file is, thereby, forwarded to the Technology Center's technical staff to withdraw any holding of abandonment and for the examiner to await applicant's response to the final Office action mailed April 2, 2008. This decision in no way extends the period for reply to the Office action.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

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OFFICE OF PETITIONS

In re Application of :
Kates :
Application No. 11/041,166 : DECISION ON PETITION
Filed: January 21, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. KATES.031A : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed August 18, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age, must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes declaration statement made by applicant. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2626 for action on the merits commensurate with this decision.

April M. Wise
Petitions Examiner
Office of Petitions

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AMGEN INC.
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ONE AMGEN CENTER DRIVE
THOUSAND OAKS, CA 91320-1799

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OFFICE OF PETITIONS

In re Application of :
Christopher Hulme, et. al. :
Application No. 11/041,173 : DECISION ON PETITION
Filed: January 21, 2005 :
Attorney Docket No. A-873 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 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 Rejection mailed, January 10, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136 (a) were obtained. Accordingly, the application became abandoned on April 11, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of $1540, 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 1625 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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TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS MI 48302

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OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application Number: 11/041178	:	ON PETITION
Filing Date: 01/24/2005	:	
Attorney Docket Number: 67,200-858A	:	

This is a decision in on the "PETITION TO SET ASIDE ABANDONMENT," filed on January 14, 2009, which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment.

The petition is **DISMISSED**.

This application became abandoned on January 7, 2008, for failure to timely submit a response to the Notice Requiring Excess Claims Fees (Notice) mailed on December 6, 2007, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 15, 2008.

Petitioner's counsel states that the Applicants have never received the Notice.

A review of the record indicates no irregularity in the mailing of the Notice mailed on December 6, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

MPEP 711.03(c) states:

> 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).
>
> (emphasis added)

At the outset, the registered patent practitioner must state that the Notice mailed on December 6, 2007 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 Notice was not received. A copy of the record(s) used by the practitioner where the non-received Notice would have been entered had it been received is required

Further, a copy of the practitioner's record(s) required to show non-receipt of the Notice should include the master docket for the firm. That is, if a one (1) month period for reply was set in the nonreceived Notice action, a copy of the master docket report showing all replies docketed for a date one month from the mail date of the nonreceived Notice must be submitted as documentary proof of nonreceipt of the Notice. 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 is **DISMISSED.**

Alternatively, petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

It is further noted that petitioners submitted $50.00 toward the excess claim fees with the subject petition. On October 2, 2008, the fee for Claims in Excess of 20 increased to $52.00, however. Fees must be paid in the amount due as of the date the fees are paid. Accordingly an additional $2.00 is with any renewed petition.

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period may not be extended.**[1]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

/D Wood/

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] 37 CFR 1.181(f).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov
DIW Jun-09

TUNG & ASSOCIATES
SUITE 120
838 W. LONG LAKE ROAD
BLOOMFIELD HILLS MI 48302

COPY MAILED

JUN 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Chen et al.	:	
Application Number: 11/041178	:	ON PETITION
Filing Date: 01/24/2005	:	
Attorney Docket Number: 67,200-858A	:	

This is a decision on the renewed petition to withdraw the holding of abandonment, filed on April 27, 2009.

The petition is **GRANTED**.

This application was held abandoned on January 7, 2008, for failure to timely submit a response to the Notice Requiring Excess Claims Fees (Notice) mailed on December 6, 2007, which set a one (1) month shortened period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on December 15, 2008. The petition filed on January 14, 2009 to withdraw the holding of abandonment was dismissed on February 26, 2009.

Petitioner's counsel again avers that the Applicants have never received the Notice. Specifically, applicants representative states that the Notice was never received, and has submitted a copy of counsel's Docketing Book for two (2) months showing that the Notice was not received.

A review of the record indicates no irregularity in the mailing of the Notice mailed on December 6, 2007, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice was not in fact received.

The docket report provided with the petition appears to be a master docket and is being so construed. Petitioner must inform the Office if this is an incorrect interpretation.

Petitioner has made a sufficient showing that the Notice Requiring Excess Claims Fees mailed on December 6, 2007 was not received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

Receipt of the excess claims fee required by the Notice Requiring Excess Claims Fees mailed on December 6, 2007, is acknowledged.

Accordingly, there is no need to remail the aforementioned Notice. Rather, the application is being forwarded to Technology Center Art Unit 2814 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DFW Dec-06

JOHN E. VANDIGRIFF
906 STONE CIRCLE LN
LEWISVILLE TX 75056

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DEC 14 2006

OFFICE OF PETITIONS

In re Application of	:	
Connie Webb	:	
Application No. 11/041,179	:	ON PETITION
Filed: 24 January, 2005	:	
Attorney Docket No. WEB102	:	

This is a decision on the petition under 37 CFR 1.137(a), filed on 4 October, 2006, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)" or "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency decision.

This application became abandoned on 3 May, 2005, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 2 March, 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. Notice of Abandonment was mailed on 21 September, 2006.

Petitioner asserts:

> It was unknown by the attorney handling this application that a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION. It appears that the NOTICE was misfiled and was not in the application folder. It was NOT docketed by a new legal assistant, and the attorney did not know of the NOTICE. Otherwise there would have been a prompt response. The abandonment was UNAVOIDABLE as its existances (*sic*) was unknown and was not in the proper file.

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by:

> (1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof;
>
> (2) the petition fee as set forth in § 1.17(l);
>
> (3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unavoidable; and
>
> (4) any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (c) of this section.

This petition lacks item (3) above.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[1]

---

[1] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C.

The showing of record is inadequate to establish unavoidable delay within the meaning of 37 CFR 1.137(a). Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure or mail, telegraph, telefacsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[2]

A delay resulting from an error (*e.g.*, a docketing error) on the part of an employee in the performance of a clerical function may provide the basis for a showing of "unavoidable" delay, provided it is shown that:

(1) the error was the cause of the delay at issue;

(2) there was in place a business routine for performing the clerical function that could reasonably be relied upon to avoid errors in its performance;

(3) and the employee was sufficiently trained and experienced with regard to the function and routine for its performance that reliance upon such employee represented the exercise of due care.[3]

An adequate showing requires:

(A) Statements by all persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them.

(B) Petitioner must supply a thorough explanation of the docketing and call-up system in use and must identify the type of records kept and the person responsible for the maintenance of the system. This showing must include copies of mail ledgers, docket sheets, filewrappers and such other records as may exist which would substantiate an error in docketing, and include an indication as to why the system failed to provide adequate notice that a reply was due.

1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account."

2 Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

3 See MPEP 711.03(c)(III)(C)(2).

(C) Petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

The present petition lacks the showing required by (1), (2), and (3) above.

At the outset, it is noted that petitioner have not provided statements from any of the persons with direct knowledge of the circumstances surrounding the delay, setting forth the facts as they know them. Petitioner states that the Notice "was NOT docketed by a new legal assistant". As such, it appears that the practicioner may have recently hired a new legal assistant. If so, and the error which led to the delay arose from the acts or omissions of the legal assistant was responsible for docketing the Notice, petitioner must provide a statement from said legal assistant, explaining the circumstances surrounding the error and why the error occurred.

Further, if a new legal assistant who was inexperienced or unfamiliar with counsel's docketing system was responsible for docketing the response to the subject Notice, the showing of record would not support a conclusion that the Notice was being docketed by a trusted and reliable employee.

Further, petitioner must supply information regarding the training provided to the personnel responsible for the docketing error, degree of supervision of their work, examples of other work functions carried out, and checks on the described work which were used to assure proper execution of assigned tasks.

In summary, insufficient evidence has been proffered to show that the error in this case is a clerical error by a reliable and trusted employee. Rather, the showing of record is that petitioner was preoccupied with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified patent application does not constitute unavoidable delay.[4]

The U.S. Patent and Trademark Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and applicant is bound by the consequences of those actions or inactions.[5] Specifically,

---

[4] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982).

[5] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

petitioner's delay caused by the mistakes or negligence of his voluntarily chosen representative does not constitute unavoidable delay within the meaning of 35 U.S.C. § 133.[6]

A delay resulting from the lack of knowledge or improper application of the patent statute, rules of practice or the MPEP does not constitute an "unavoidable" delay.[7] A delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (1) the applicant's reliance upon oral advice from Office employees; or (2) the Office's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action.[8]

As the showing presented is insufficient to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a). Thus, the petition will be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b),[9] which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b).

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[6] Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N. D. Ind. 1987); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (Comm'r Pat. 1891).

[7] Id.

[8] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985); see also In re Colombo, Inc., 33 USPQ2d 1530, 1532 (Comm'r Pat. 1994)(while the Office attempts to notify applicants of deficiencies in their responses in a manner permitting a timely correction, the Office has no obligation to notify parties of deficiencies in their responses in a manner permitting a timely correction).

[9] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(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)).

The filing of a petition under the unintentional standard cannot be intentionally delayed and therefore should be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the delay from the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

A copy of the form for filing a petition under 37 CFR 1.137(b) to revive an application unintentionally abandoned is enclosed herewith for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

/D Wood/
Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: PTO/SB/64
Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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DIW Mar-07

JOHN E. VANDIGRIFF
906 STONE CIRCLE LN
LEWISVILLE TX 75056

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MAR 14 2007

OFFICE OF PETITIONS

In re Application of :
Connie Webb :
Application No. 11/041,179 : DECISION ON PETITION
Filed: 24 January, 2005 :
Attorney Docket No. WEB102 :

This is a decision on the petition filed on 27 December, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned on 3 May, 2005, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 2 March, 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. Notice of Abandonment was mailed on 21 September, 2006. The petition under 37 CFR 1.137(a) filed on 4 October, 2006, was dismissed on 14 December, 2006.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The required reply was received on 4 October, 2006.

The application is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

MAILED

MAR 3 1 2009

OFFICE OF PETITIONS

In re Application of :
Johnson et al. :
Application No. 11/041,185 : DECISION GRANTING PETITION
Filed: January 24, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 10265-722.202 :

This is a decision on the petition, filed December 10, 2008, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 4, 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 July 2, 2009, accompanies this decision on petition.

This matter is being referred to Technology Center AU 1793 to await a reply to the outstanding non-final Office action mailed March 13, 2009. Failure to timely reply will again result in the abandonment of the application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/041,185	01/24/2005	A. David Johnson	10265-722.202

CONFIRMATION NO. 9819

66854
SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

NONPUBLICATION RESCISSION LETTER

OC000000035182444

Date Mailed: 03/26/2009

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 07/02/2009.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/lswalsh/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO, CA 94403

Mail Date: 04/21/2010

Applicant	: A. David Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7632361	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,185	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **758** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON, DC 20001-4413

MAILED

MAR 2 6 2010

OFFICE OF PETITIONS

In re Patent of Frank et al.	:	DECISION ON REQUEST
Patent No. 7,589,063	:	FOR RECONSIDERATION OF
Issue Date: September 15, 2009	:	PATENT TERM ADJUSTMENT
Application No. 11/041,207	:	AND NOTICE OF INTENT TO
Filing Date: January 25, 2005	:	ISSUE CERTIFICATE OF
Attorney Docket No. 09498.0008-00	:	CORRECTION

This is a decision on the petition filed November 13, 2009, which is being treated as a petition under 37 C.F.R. § 1.705(d) requesting the patent term adjustment indicated on the patent be corrected to indicate the term of the above-identified patent is extended or adjusted by two hundred sixty-nine (269) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate the term of the above-identified patent is extended or adjusted by two hundred sixty-nine (269) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 C.F.R. § 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the patent is extended or adjusted by **two hundred sixty-nine (269)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Anthony Knight
Supervisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT NO.	:	7,589,063 B2
ISSUE DATE	:	September 15, 2009
INVENTOR(S)	:	Frank et al.

DRAFT

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 0 days.

Delete the phrase "by 0 days" and insert - by 269 days--

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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OLIFF & BERRIDGE, PLC
P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

Mail Date: 04/20/2010

Applicant	: Toru Aoki	: DECISION ON REQUEST FOR
Patent Number	: 7602359	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,259	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1298** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

IN THE UNTIED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : New U.S. Application 11/041291
Applicant : Tomohiro INOUE et al
Filed : January 25, 2005
TC/A.U. : 1725
Examiner : Olsen, Kaj

Docket No. :2946-185
Customer No. :6449
Confirmation No. :

PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O.Box 1450
Alexandria, Virginia 22313-1450

Dear Sir:

Pursuant to 37 CFR 1.102, this is a petition to make special the application: "Gas Detecting Device with Self-diagnosis for Electrochemical Gas Sensor," attorney docket number 2946-185, filed of even date herewith.

This petition is accompanied by the fee set forth in 37 FR 1.17(h) of $130. (To be charged to our deposit account).

This application has one independent claim (claim1) and a total of six (6) claims, which are all directed to a single invention.

This application is an improvement over a prior commonly owned application entitled "Self-diagnostic Method for Electrochemical Gas Sensor & Gas Detecting Device," attorney docket number 2946-184, filed on January 3, 2005, serial number not yet known.

A pre-examination search was made for claims believed to be of the same scope

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
www.uspto.gov

wk

Mailed: 6-22-06

In re application of	:	
Tomohiro Inoue	:	DECISION ON
Serial No. 11/041,291	:	PETITION
Filed: January 25, 2005	:	
For: GAS DETECTING DEVICE WITH SELF-DIAGNOSIS FOR ELECTROCHEMICAL GAS SENSOR	:	

This is a decision on applicant's Petition To Invoke the Supervisory Authority Of The Director Pursuant to 37 CFR 1.181(a)(3) sent February 9, 2006. Applicant asserts that the Office has made a material mistake with reference to the timeliness of handling the petition to make special.

A Petition to Make Special was filed on January 25, 2005. Applicant asserts that the USPTO was contacted in October 2005 to determine the status of the petition. The petition to make special was granted on January 26, 2006. Applicant requests a refund of the $130 fee applicant paid in connection with the filing of the Petition to Make Special. Applicant asserts that the Office erred in handling the initial Petition to Make Special creating a substantial delay and as such, the applicant lost significant time in the application prosecution process.

DECISION

The instant petition is accepted as a petition under 37 CFR 1.181(no fee).

The petition is **DISMISSED**.

The Office does not refund money for services that were not paid in error. The fee was paid to have the petition considered and since it was considered, there is no refund. The delay in processing the request is regretted. It should be noted that the granting of the petition assures applicant that all future USPTO actions, as well as issuance of the case will be expedited and taken out of turn.

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Robert B. Murray
Rothwell, Figg, Ernst & Manbeck, P.C.
Suite 800, 1425 K Street, N.W.Washington, D.C. 20005

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov
DIW Oct-09

Paper No.

ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON DC 20036

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NOV 0 2 2009

OFFICE OF PETITIONS

In re Patent No. 7355285	:	
Issue Date: 04/08/2008	:	
Application Number: 11/041292	:	LETTER
Filing Date: 01/25/2005	:	
Attorney Docket Number: 027605-00001	:	

This is a letter in response to the "REQUEST FOR CORRECTED NOTICE OF RECORDATION OF ASSIGNMENT DOCUMENT" filed on April 2, 2009.

Attached is a copy of the PALM printout from the subject application, showing the assignors' names as currently listed. It appears that the fourth assignor's name has been corrected as requested.

Patentee should contact the Assignments Branch at 571-272-3150 if additional information is requested.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Encl: Patent Assignment Abstract of Title

Patent Assignment Abstract of Title

Total Assignments: 1

Application #: 11041292 **Filing Dt:** 01/25/2005 **Patent #:** 7355285 **Issue Dt:** 04/08/2008
PCT #: NONE **Publication #:** US20060094157 **Pub Dt:** 05/04/2006
Inventors: Kenji Kobae, Hidehiko Kira, Norio Kainuma, Takayoshi Matsumura
Title: STRUCTURE OF MOUNTING ELECTRONIC COMPONENT

Assignment: 1

Reel/Frame: 016224 / 0424 **Received:** 02/07/2005 **Recorded:** 01/25/2005 **Mailed:** 07/07/2005 **Pages:** 2
Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).
Assignors: KOBAE, KENJI **Exec Dt:** 12/25/2004
KIRA, HIDEHIKO **Exec Dt:** 12/25/2004
KAINUMA, NORIO **Exec Dt:** 12/28/2004
TAKAYOSHI MATSUMURA **Exec Dt:** 12/28/2004
Assignee: FUJITSU LIMITED
1-1, KAMIKODANAKA 4-CHOME, NAKAHARA-KU
KAWASAKI-SHI, KANAGAWA 211-8588, JAPAN
Correspondent: ARENT FOX PLLC
1050 CONNECTICUT AVENUE, NW
SUITE 400
WASHINGTON, DC 20036-5339

Search Results as of: 10/28/2009 03:16 PM

If you have any comments or questions concerning the data displayed, contact PRD / Assignments at 571-272-3350.
Web interface last modified: October 18, 2008 v.2.0.1

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Commissioner for Patents
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Alexandria, VA 22313-1450
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APR 14 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Morrow et al.	:
Serial No.: 11/041,318	: PETITION TO MAKE SPECIAL
Filed: January 24, 2005	:
Attorney Docket No.: AVANIR.149CP1C3	:

This is in response to applicants' petition filed June 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions for countering terrorism (M.P.E.P. 708.02, XI). The $130.00 petition fee as required by 37 CFR 1.17(h) for countering terrorism will be charged to applicants' Deposit Account No. 11-1410, as directed .

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 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

30 AUG 2005

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

RICHARD A. HAASE (INVENTOR)
4402 RINGROSE DRIVE
MISSOURI CITY TX 77459

In re Application of	:	DECISION ON
Haase, Richard Alan	:	
Application No.: 11/041,329	:	
Filing Date: 24 January 2005	:	PETITION UNDER
Attorney's Docket No.: CV-28	:	
For: MEHTODS AND PROCESSES FOR THE	:	
MANUFACTURE OF POLYNUCLEATE METAL	:	
COMPOUNDS AND DISINFECTANTS	:	37 CFR 1.137(b)

This is in response to "Petition For Revival Of An International Application For Patent Designating The U.S. Abandoned Unintentionally Under 37 CFR 1.137(b)" filed on 24 January 2005. The Petition fee of $685.00 under 37 CFR 1.17(m) to revive unintentionally abandoned application 11/041,329 has been provided by check.

On 24 January 2005, applicant submitted a petition to revive and a utility patent application transmittal letter. These papers were improperly separated and assigned different application numbers – for the transmittal letter application, number 11/041,329, and for the petition, application number 10/524,651. Thus having two application numbers for the above papers. Consequently, the petition placed in application number 10/524,651 belongs in application number 11/041,329.

The petition in application number 10/524,651 has been place in application number 11/041,329. Applicant should use application number **11/041,329** in all future communications with the Patent and Trademark Office.

Applicants' petition under 37 CFR 1.137(b) filed 24 January 2005 to revive international application PCT/US02/23651 abandoned under 35 U.S.C. 371(d) is hereby **GRANTED** as to the National stage in the United States of America as follows:

International application PCT/US02/23651 became abandoned as to the United States of America at midnight on 25 January 2004 for failure to pay the basic national fee. The filing of the present continuing application under 35 U.S.C. 111 is accepted as the appropriate response under 37 CFR 1.137(b) (See MPEP § 711.03(c)).

International application PCT/US02/23651 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 number 11/041,329.

This application is being forward to Office Initial Patent Examination (OIPE) for continued processing.

Rafael Bacares
PCT Legal Examiner
PCT Legal Office
Telephone: (571) 272-3276
Facsimile: (571) 273-0459

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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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

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SEP 26 2008

OFFICE OF PETITIONS

In re Patent No. 7,350,917 :
Application No. 11/041,337 :
Filed: January 25, 2005 : ON PETITION
Issued: April 1, 2008 :
Attorney Docket No. Q93832 :

This is a decision on the petition filed July 30, 2008, which is being treated as a request under 37 CFR 3.81(b)[1] to add the names of the assignees on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

APR - 3 2007

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Alexandria, VA 22313-1450
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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Larry D. Knerr	:
Serial No.: 11/041,343	: PETITION DECISION
Filed: January 24, 2005	:
Attorney Docket No.: 1484-002	

This is in response to the petition under 37 CFR § 1.59(b), filed March 05, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 05, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

M. C. Seidel

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,343	01/24/2005	Larry D. Knerr	1484-002	4455

32905 7590 05/22/2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK, CO 80108

EXAMINER	
ROBINSON, KEITH O NEAL	
ART UNIT	PAPER NUMBER
1638	

MAIL DATE	DELIVERY MODE
05/22/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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MAY 2 2 2009

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of:
Larry D. Knerr
Serial No.: 11/041,343
Filed: January 24, 2005
Attorney Docket No.: 1484-002

: PETITION DECISION

This is in response to the renewed petition under 37 CFR § 1.59(b), filed May 21, 2009, to expunge information from the above identified application. This application has been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on March 5, 2007 be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
234
CHARLOTTESVILLE VA 22911

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NOV 17 2008

OFFICE OF PETITIONS

In re Application of :
David P. Goodrich :
Application No. 11/041,353 : DECISION ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. GOOD.06.U1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 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 July 21, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed April 21, 2008. Accordingly, the date of abandonment of this application is July 22, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720.00 and the publication fee of $300.00, (2) the petition fee of $810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-3213.

This application is being referred to Publishing Division for processing into a patent.

Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Adjustment date: 11/14/2008 CKHLOK
11/13/2008 CKHLOK 00000001 11041353
01 FC:1506 -720.00 OP

USPTO OCT 06 2008 PATENT & TRADEMARK OFFICE

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)

62152 7590 04/21/2008

PARKER INTELLECTUAL PROPERTY LAW OFFICE
536 PANTOPS CENTER
234
CHARLOTTESVILLE, VA 22911

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.

Janice Pringle	(Depositor's name)
Janice Pringle	(Signature)
10/2/08	(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,353	01/24/2005	David P. Goodrich	GOOD.06.U1	4431

TITLE OF INVENTION: PLEATING SYSTEM

Adjustment date: 11/13/2008 CKHLOK
08/07/2008 HVUONG2 00000079 11041353
01 FC:1506 -720.00 OP

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	YES	$720	$300			

11/13/2008 CKHLOK 00000001 11041353
01 FC:1506 720.00 OP

EXAMINER	ART UNIT	CLASS-SUBCLASS
DESAI, HEMANT	3721	493-343000

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 Sheldon H. Parker
2
3

11/14/2008 CKHLOK 00000001 11041353
01 FC:2501 720.00 OP

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 Sheldon H. Parker Date 10/2/08

Typed or printed name Sheldon H. Parker Registration No. 20738

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.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 1/29/08

Paper No.: —

TO SPE OF : ART UNIT 2873

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/041364 Patent No: 7012764B2

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: Col 10, line 23 recites "However". There is no need to correct.

RICKY MACK
SUPERVISORY PATENT EXAMINER

SPE

2873
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
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DIW Sep-06

CANTOR COLBURN, LLP
55 GRIFFIN ROAD SOUTH
BLOOMFIELD CT 06002

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OFFICE OF PETITIONS

In re Application of	:	
Berger et al.	:	DECISION ON PETITION TO
Application No. 11/041,383	:	WITHDRAW HOLDING OF
Filed: 24 January, 2005	:	ABANDONMENT
Attorney Docket No. CAO-0548	:	

This is a decision on the petition filed on 2 July, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 29 November, 2005, which set a three (3) month shortened statutory period for reply. No reply having been received, Notice of Abandonment was mailed on 6 July, 2006.

Petitioners aver that an amendment and a three (3) month extension of time were timely filed. In support, petitioner has supplied a copy of an amendment to the specification, the last page of which authorizes the charging any required extensions of time to counsel's deposit account. The first page of the amendment contains a Certificate of Mailing or Transmission dated "30 May, '06," and signed by petitioner's registered patent attorney, Daniel Drexler. Petitioners have additionally included a statement by attorney Drexler stating that he has personal

knowledge of depositing the response in the outgoing mail on 30 May, 2006.[1]

As petitioners have provided convincing evidence that an amendment and three (3) month extension of time were timely filed on 30 May, 2006, the showing of record is that a response was timely filed, and there is no abandonment in fact. Any inconvenience caused to applicant is regretted.

The holding of abandonment is withdrawn, and the Notice of Abandonment is vacated.

Counsel's deposit account will be charged the fee for a three (3) month extension of time.

The application is being referred to Technology Center Art Unit 3765 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] As 29 May, 2006, was a federal holiday, the response filed on 30 May, 2006, is considered timely filed. 37 CFR 1.7(a).

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

DOUGLAS A. MIRO
OSTROLENK, FABER. GERB & SOFFEN, LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED

FEB 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert f. Speyer, et al.	:	
Application No. 11/041,415	:	DECISION GRANTING PETITION
Filed: May 4, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P/4783-3	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 19, 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 January 28, 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 regarding this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Technology Center AU 1791 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

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NOV 0 9 2009

OFFICE OF PETITIONS

In re Application of	:	
Tedd Dideriksen et al	:	DECISION REFUSING STATUS
Application No. 11/041,441	:	UNDER 37 CFR 1.47(a)
Filed: January 24, 2005	:	
Attorney Docket No. MS1-0786USC3	:	

This is in response to the petition under 37 CFR 1.47(a), filed April 27, 2009.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO (2) MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventors cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition received April 27, 2009 sets forth an incorrect application filed; i.e., 09/817,902 rather than 11/041,441. However, It is noted that petitioner submitted an oath/declaration in accordance with 37 CFR 1.63(d)(3). Accordingly, petitioner must submit a copy of the decision granting a petition in accord § 1.47 status to the prior application. See 37 CFR 1.63(d)(3)(i).

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 Window, Mail Stop PETITIONS
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

MAILED

JUN 17 2010

OFFICE OF PETITIONS

In re Application of	:	
Tedd Dideriksen et al	:	DECISION GRANTING STATUS
Application No. 11/041,441	:	UNDER 37 CFR 1.47(a)
Filed: January 24, 2005	:	
Attorney Docket No. MS1-0786USC3	:	

This is a decision on the petition filed, November 10, 2009, requesting reconsideration of a decision mailed November 9, 2009, which refused to accord 37 CFR 1.47(a) status to the above-identified application.

The petition is **GRANTED.**

Petitioner has shown that the non-signing inventor Chris Feller has refused to join in the filing of the above-identified application.

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 matter is being referred to the Office of Patent Application Processing.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

David Bucci
Petitions Examiner
Office of Petitions

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Alexandria, VA 22313-1450
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MAILED

JUN 17 2010

OFFICE OF PETITIONS

Chris Feller
15600 NE 8th Street, Suite B1-537
Bellevue, WA 98008

In re Application of
Tedd Dideriksen; Chris Feller; Geoffrey Harris; Michael J. Novak; Kipley J. Olson
Application No. 11/041,441
Filed: January 24, 2005
For: METHODS AND SYSTEMS FOR SYNCHRONIZING VISUALIZATIONS WITH AUDIO STREAMS

Dear Mr. Feller:

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 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 Irvin Dingle at (571) 272-3210. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to the Certification Division at (703) 308-9726 or 1 (800) 972-6382 (outside the Washington, DC area).

David Bucci
Petition Examiner
Office of Petitions

cc: Lee & Hayes, PLLC
601 W. Riverside Avenue
Suite 1400
Spokane, WA 99201

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OIPE ADIII
MAR 25 2005
PATENT & TRADEMARK OFFICE

Paper No. 9

LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

COPY MAILED

MAR 17 2003

OFFICE OF PETITIONS

In re Application of :
Dideriksen, Feller, Harris, and :
Novak :
Application No. 09/817,902 : DECISION ACCORDING STATUS
Filed: 26 March, 2001 : UNDER 37 CFR 1.47(a)
Attorney Docket No. MS1-786US :

This is in response to the twice renewed petition under 37 CFR 1.47(a)[1] filed on 7 March, 2003.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Chris Feller, has refused to join in the filing of the above-identified application after having been sent a copy of the application papers via E-mail. The non-signing inventor subsequently responded by E-mail stating his refusal to sign.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the declaration. Notice of the filing of this application will also be published in the Official Gazette.

[1] A grantable petition under 37 CFR 1.47(a) requires:
(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);
(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;
(3) the petition fee; and
(4) a statement of the last known address of the non-signing inventor.

DOCKETED
MAR 24 2003
LEE & HAYES, PLLC

PAGE 7/11 * RCVD AT 3/25/2005 5:27:46 PM [Eastern Standard Time] * SVR:USPTO-EFXRF-2/0 * DNIS:7464060 * CSID:509 323 8979 * DURATION (mm-ss):03-28

The $130.00 fee filed with the present request for reconsideration is unnecessary and will be credited to counsel's deposit account, No. 12-0769.

The application is being forwarded to Technology Center 2100 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at 703-308-6918.

Douglas I. Wood
Petitions Attorney
Office of Petitions

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MAR 25 2005
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MAR 17 2005

OFFICE OF PETITIONS

Chris Feller
15600 NE 8th Street, Suite B1-537
Bellevue, WA 98008

In re Application of
Diderlksen et al.
Application No. 09/817,902
Filed: 26 March, 2001
For: METHODS AND SYSTEMS FOR SYNCHRONIZING VISUALIZATIONS WITH AUDIO STREAMS

Dear Mr. Feller:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 703/308-6918. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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.

UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

Attorney Docket No.	MS1-786USC4
First Inventor	Todd Diderksen
Title	Methods and Systems for Synchronizing Visualizations with Audio Streams
Express Mail Label No.	EV 549909753

ADDRESS TO: Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450

APPLICATION ELEMENTS

SEE MPEP chapter 600 concerning utility patent application contents.

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17) *(Submit an original and a duplicate for fee processing)*
2. ☐ Applicant claims small entity status. See 37 CFR 1.27.
3. ☒ Specification *Total Pages:[32]* *(preferred arrangement set forth below)*
   - -Descriptive title of the invention
   - -Cross Reference to Related Applications
   - -Statement Regarding Fed sponsored R & D
   - -Reference to sequence listing, a table, or a computer program listing appendix
   - -Background of the Invention
   - -Brief Summary of the Invention
   - -Brief Description of the Drawings *(if filed)*
   - -Detailed Description
   - -Claim(s)
   - -Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) *Total Sheets: [15]*
5. Oath or Declaration *Total Sheets:[3]*
   - a. ☐ Newly executed (original or copy)
   - b. ☒ Copy from a prior application (37 CFR 1.63 (d)) *(for continuation/divisional with Box 18 completed)*
     - i. ☐ DELETION OF INVENTOR(S) Signed statement attached deleting inventor(s) Named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)
6. ☒ Application Data Sheet. See 37 CFR 1.76
7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program *(Appendix)*
8. Nucleotide and/or Amino Acid Sequence Submission *(if applicable, all necessary)*
   - a. ☐ Computer Readable Form (CRF)
   - b. Specification Sequence Listing on:
     - i. ☐ CD-ROM or CD-R (2 copies); or
     - ii. ☐ paper
   - c. ☐ Statements verifying identity of above copies

ACCOMPANYING APPLICATION PARTS

9. ☐ Assignment Papers (cover sheet & documents(s))
10. ☐ 37 CFR 3.73(b) Statement ☒ Power of Attorney *(when there is an assignee)*
11. ☐ English Translation Document *(if applicable)*
12. ☒ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503) *(Should be specifically itemized)*
15. ☐ Certified Copy of Priority Document(s) *(if foreign priority is claimed)*
16. ☐ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☒ Other: Of-Record Attorney Designation, Copy of Decision According Status Under 37 CFR 1.47(a), Terminal Disclaimer

18. If a CONTINUING APPLICATION, *check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:*

☒ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No.: 09/817,902

Prior application information: *Examiner: LE, MIRANDA* *Art Unit: 2177*

For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

19. CORRESPONDENCE ADDRESS

☒ Customer Number : 22801 OR ☐ Correspondence address below

Name	LEE & HAYES, PLLC				
Address	421 W. RIVERSIDE, SUITE 500				
Address	SPOKANE, WA 99201, 509-324-9256				
City	SPOKANE	State	WA	Zip Code	99201
Country		Telephone	509-324-9256	Fax	509-323-8979
Name (Print/Type)	Lance R. Sadler		Registration No. (Attorney/Agent)		38605
Signature				Date	1/24/05

This collection of information is required by 37 CFR 1.53(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 1.14. 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 [illegible] U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS

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MS1-786USC4 Microsoft Corporation 1-24-2005

The stamp of the U.S. Patent and Trademark Office acknowledges receipt of the documents enumerated below, relating to the following application for letters patent:
Title: "Methods and Systems for Synchronizing Visualizations with Audio Streams"
Inventorship: Tedd Dideriksen et al.

1. Patent Application Transmittal
2. Fee Transmittal
3. Application Data Sheet (5 pages)
4. New patent application (title page plus pages 1-31, including claims 1-13 & Abstract)
5. 15 sheets of formal drawings (Figs. 1-15)
6. Copy of Executed Declaration from prior application (3 pages) (copy of Decision According Status Under 37 CFR 1.47(a))
7. Of-Record Attorney Designation
8. Information Disclosure Statement; Form PTO-1449
9. Terminal Disclaimer
10. PTO Return Postcard Receipt

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JUL 14 2005

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Morrow et al.	:
Serial No.: 11/041,471	: PETITION TO MAKE SPECIAL
Filed: January 24, 2005	:
Attorney Docket No.: AVANIR.149CP1C2	:

This is in response to applicants' petition filed June 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d), based on inventions for countering terrorism (M.P.E.P. 708.02, XI). The $130.00 petition fee as required by 37 CFR 1.17(h) for countering terrorism will be charged to applicants' Deposit Account No. 11-1410, as directed .

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 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

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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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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TED MASTERS & ASSOCIATES, INC.
5121 SPICEWOOD DRIVE
CHARLOTTE, NC 28227-0313

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MAY 0 6 2008

OFFICE OF PETITIONS

In re Application of :
Michael Montemurro :
Application No. 11/041,490 : DECISION ON PETITIONS
Filed: January 24, 2005 : UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. N/A :

This is a decision on the petition under 37 CFR § 1.78, filed December 26, 2007, which is being treated as petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petitions are **GRANTED.**

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

(1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 and 119(e) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 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 applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the 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.

This application is being forwarded to Technology Center Art Unit 1792, for consideration by the examiner of the claim under 35 U.S.C. § §120 and 119(e) of the prior-filed nonprovisional and provisional applications.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3226. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

Andrea Smith
Petitions Examiner
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/041,490	01/24/2005	1792	500		10	1

CONFIRMATION NO. 4760

CORRECTED FILING RECEIPT

40742
TED MASTERS
TED MASTERS & ASSOCIATES, INC.
5121 SPICEWOOD DRIVE
CHARLOTTE, NC 28227-0313

Date Mailed: 05/06/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Montemurro, Charlotte, NC;

Power of Attorney:
Theodore Masters--36209

Domestic Priority data as claimed by applicant

This application is a DIV of 10/834,514 04/29/2004 PAT 6,866,716
which claims benefit of 60/493,201 08/07/2003

Foreign Applications

If Required, Foreign Filing License Granted: 03/10/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/041,490**

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No
**** SMALL ENTITY ****

Title

Method for striping a surface with paint and apparatus therefor

Preliminary Class

118

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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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC
701 FIFTH AVENUE, SUITE 5400
SEATTLE, WA 98104-7092

Mail Date: 04/21/2010

Applicant	: Danilo Pau	: DECISION ON REQUEST FOR
Patent Number	: 7663695	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,518	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1393** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : April 12, 2010

TO SPE OF : ART UNIT 2838
SUBJECT : Request for Certificate of Correction for Appl. No /11/041519 patent 7391198

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Magdalene Talley

Certificates of Correction Branch
571-272-0423

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: _____

/Monica Lewis/ — **SPE**

2838 — **Art Unit**

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CARRIER BLACKMAN AND ASSOCIATES
24101 NOVI ROAD
SUITE 100
NOVI MI 48375

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JUN 27 2007

OFFICE OF PETITIONS

In re Application of	:	
Nishikawa et al.	:	
Application No. 11/041,532	:	ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. HGM-190-A	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed May 18, 2007, to revive the above-identified application.

The petition is **GRANTED.**

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the Issue Fee Transmittal with payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the response has been accepted as having been unintentionally delayed.

This matter is being referred to the Publishing Division for processing into a patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EDWARDS ANGELL PALMER & DODGE LLP
P.O. BOX 55874
BOSTON MA 02205

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FEB 04 2010

In re Application of	:	
Bernard Spievogel, et al.	:	
Application No. 11/041,558	:	DECISION ON PETITION
Filed: January 21, 2005	:	
Attorney Docket No. 60423 (50344)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 23, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 5, 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 June 6, 2009. The Notice of Abandonment was mailed September 23, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1793 for appropriate action by the Examiner in the normal course of business on the reply received.

Terri Johnson
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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MYERS BIGEL SIBLEY & SAJOVEC
PO BOX 37428
RALEIGH, NC 27627

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DEC 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Crowe, et al. :
Application No. 11/041,559 :
Filed: January 24, 2005 :
Attorney Docket No. 9021-11CT :

DECISION GRANTING PETITION

This is a decision on the petition under 37 CFR 1.137(a) filed October 26, 2005. The petition will be treated as a petition filed under 37 CFR 1.181(a) to withdraw the holding of abandonment. The petition will also be treated as petition under 37 CFR 1.53, to accord the application a filing date.

The petition under 37 CFR 1.181(a) is **granted**.

The petition under 37 CFR 1.53 is also **granted**.

On January 24, 2005, the above-identified application was filed. On March 3, 2005 the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application " (the "Notice"), stating that the application had not been accorded a filing date because drawings were not found with the application papers, but were believed to be necessary to understand the invention claimed. The Notice allowed a non-extendable two-month period for reply beginning from the mailing date of the Notice. No response was received within the allowable period, and the proceedings for this application were terminated on May 4, 2005. A "Notice of Termination of Proceedings under 37 CFR 1.53(e) was mailed on August 24, 2005.

TREATMENT UNDER 37 CFR 1.181(a)

A review of the application file revealed that seven sheets of drawings accompanied the original disclosure on January 24, 2005. The "Notice of Incomplete Non-provisional Application" was, therefore, issued in error. Accordingly, the termination of proceedings that was predicated on the "Notice of Incomplete Nonprovisional Application" was also improper and is withdrawn. The holding of abandonment is withdrawn.

TREATMENT UNDER 37 CFR 1.53

A review of the application file revealed that the application was not accorded a filing date because no drawings were thought to have been received with the original disclosure. As stated above, drawings did, in fact, accompany the original disclosure. The application was, therefore, entitled to a filing date of January 24, 2005. The application is accorded a filing date of January 24, 2005.

The petition fee of $500.00 remitted will be refunded, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing and for issuance of a corrected filing receipt reflecting a filing date January 24, 2005.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RYAN KROMHOLZ
& MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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SEP 21 2009

OFFICE OF PETITIONS

In re Application of :
Reiley :
Application No. 11/041,570 : DECISION
Filed: 24 January, 2005 :
Attorney Docket No. 9562.18518-CIP :

This is a decision on the petition filed on 15 June, 2009, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Petitioner does not appear to have addressed satisfactorily the statement/showing-of-delay requirement under the rule. This deficiency must be overcome.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Requirement for Restriction mailed on 11 May, 2007, with reply due absent extension of time on or before 11 June, 2007.

The application went abandoned by operation of law after midnight 11 June, 2007.

The Office mailed the Notice of Abandonment on 12 October, 2007.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Election and made the statement of unintentional delay but does not appear to have addressed extended delay of twenty-four (24) months since the date of abandonment and twenty (20) months since Notice thereof. On any renewed petition, Petitioner (Applicant) must provide an explanation of the delay, with documentation in support thereof.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2] The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

---

[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.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[3]))

As to Allegations of
Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the statement/showing-of-delay requirement under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

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

[3] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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RYAN KROMHOLZ
& MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

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OFFICE OF PETITIONS

In re Application of :
Reiley :
Application No. 11/041,570 : DECISION
Filed: 24 January, 2005 :
Attorney Docket No. 9562.18518-CIP :

This is a decision on the petition filed on 24 March, 2010, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

At issue is the nature of the delay in this matter and Petitioner's statement/showing-of-delay requirement under the rule. |

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the Requirement for Restriction mailed on 11 May, 2007, with reply due absent extension of time on or before 11 June, 2007.

The application went abandoned by operation of law after midnight 11 June, 2007.

The Office mailed the Notice of Abandonment on 12 October, 2007.

On 15 June, 2009, Petitioner filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), with a reply in the form of an Election and made the statement of unintentional delay but had not addressed the extended delay of twenty-four (24) months since the date of abandonment and twenty (20) months since Notice thereof. The petition was dismissed on 21 September, 2009.

On 24 March, 2010, Petitioner re-advanced the petition over a (Monday) 22 March, 2010, certificate of mailing. It is noted that on deposit of the application on 24 January, 2005, the Office was authorized to charge any necessary fees throughout prosecution, and the fee for a four month extension of time is now charged as authorized to Deposit Account 06-2360. Petitioner provides an extended explanation for the delay, however, what is clear from the record is that in an Email of 6 July, 2006, the inventor Dr. Mark A. Reiley (Dr. Reiley) indicated to his Counsel that he had "decided to dump anymore work on the percutaneous inter-spinous (sic) process blocker"[1]—a message on which his Counsel noted the docket number of the instant application (9562.18518-CIP), and for which Counsel then confirmed his understanding of that decision in a letter to Dr. Reiley of 18 July, 2006.[2] Thereafter neither Dr. Reiley nor his Counsel appear to have addressed the matter, and Dr. Reiley, in his statement accompanying the petition (Item 5, page 3)[3] states that "it was not [his] custom to read this type of letter correspondence from [his Counsel] Mr. Ryan." Thereafter, the matter remained unattended until Mr. Ryan "learned that there had been an inquiry by a third party sometime in the spring-summer of 2009 about the US application *** and this prompted Dr. Reiley to inquire about their status."[4] Thus, it appears that Applicant specifically instructed his Counsel to set aside the instant matter in July 2006, and then did not attend to it until "spring-summer of 2009." Those actions strongly indicate intent to delay in 2006, notwithstanding the arguments to the contrary years later. Petitioner's showing at this writing is not one of unintentional delay.

Again, Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

---

[1] IFW page 92 of the petition of 24 March, 2010.
[2] IFW page 93 of the petition of 24 March, 2010.
[3] IFW page 12 of the petition of 24 March, 2010.
[4] IFW page 8 of the petition of 24 March, 2010.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[5]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[6]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[7]))

As to Allegations of Unintentional Delay

As indicated above, the requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a proper reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

As discussed above, it does not appear that Petitioner has satisfied the statement/showing-of-delay requirement under the rule.

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

---

[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[6] 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.

[7] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Further correspondence with respect to this matter should be addressed as follows:

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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 regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[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./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[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 Petitioners or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

MCNAIR LAW FIRM, P.A.
P.O. BOX 447
GREENVILLE, SC 29602-0447

In re Patent No: 7,244,509
Issue Date : July 17, 2007
Application No. 11/041,573
Filed: January 24, 2005
Attorney Docket No. EVCO 033762.37

NOTICE

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.

There is no indication that the request is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Timothy D. Mead appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If, Mr. Mead 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. Mead, 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.

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

cc: TIMOTHY D. MEADE
AKZO NOBEL INC.
LEGAL & IP
120 WHITE PLAINS ROAD, SUITE 300
TARRYTOWN, NY 10591

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P.O. Box 1450
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FELDMAN GALE PA
201 S. BISCAYNE BOULEVARD
MIAMI CENTER, 19TH FLOOR
MIAMI, FL 33131-4332

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OFFICE OF PETITIONS

In re Application of :
OWOC, John H. :
Application No. 11/041,575 : DECISION ON PETITION
Filed: January 24, 2005 : TO WITHDRAW
Attorney Docket No. 8719 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 12, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **FELDMAN GALE PA** has been revoked by the assignee of the patent application on April 10, 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 Monica A. Graves at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **JEFFREY H. KAMENETSKY, ESQ.**
CHRISTOPHER & WEISBERG PA
200 EAST LAS OLAS BLVD, SUITE 2040
FORT LAUDERDALE, FL 33301

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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DTW Mar-06

MAYER & WILLIAMS PC
251 NORTH AVENUE WEST
2ND FLOOR
WESTFIELD NJ 07090

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MAR 27 2006

OFFICE OF PETITIONS

In re Application of	:	
Claudio Burtin	:	DECISION ON PETITION
Application No. 11/041,581	:	TO WITHDRAW
Filed: 24 January, 2005	:	HOLDING OF ABANDONMENT
Atty Docket No. 00109/005001	:	

This is a decision on the petition filed 3 March, 2006, requesting withdraw the holding of abandonment of the above-identified application.

This application was held abandoned for failure to respond in a timely manner to the non-final Office action mailed 5 April, 2005. Notice of Abandonment was mailed on 9 February, 2006.

Petitioner asserts that a proper response, in the form of a Terminal Disclaimer, was timely filed.

A review of the record reveals that a Terminal Disclaimer and the fee for filing such, both filed on 25 April, 2005, is located therein. As such, the showing is that a response was timely filed, and that the Notice of Abandonment was mailed in error.

For the reasons stated above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED**.

The application file will be referred to Technology Center Art Unit 3612 technical support staff for entry of the response.

Thereafter, the application file will be forwarded to the examiner for action in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Alexandria, VA 22313-1450
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HEWLETT PACKARD COMPANY
P.O. BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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OCT 22 2008

OFFICE OF PETITIONS

In re Application of :
James Arthur McCormack, et. al. :
Application No. 11/041,584 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. 200308694-1 :

This is a decision on the petition under 37 CFR 1.137(b), filed on March 31, 2008, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Nenad Pejic 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. If N. Pejic 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.

Additionally, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

The application became abandoned for failure to respond to the non-final Office action mailed April 2, 2007.

As authorized, the petition fee of $1,540 has been charged to petitioner's deposit account.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $1,540; and (3) a proper statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to Technology Center Art Unit 2117 for review of the amendment filed with the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

cc: Calfee Halter and Griswold, LLP
800 Superior Ave
1400 McDonald Investment Ctr.
Cleveland, OH 44114

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/041,592	01/24/2005	Wing Yiu Ng	WWSM 2528.1

SENNIGER POWERS
ONE METROPOLITAN SQUARE
16TH FLOOR
ST LOUIS MO 63102

DATE MAILED: July 17, 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 July 7, 2006, requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Any inquiries concerning this decision should be directed to the Pre-Grant Publication Division at (703) 605-4283.

Barbara J. Debnam
Pre-Grant Publication Division

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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THOMPSON COBURN, LLP
ONE US BANK PLAZA
SUITE 3500
ST LOUIS MO 63101

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FEB 12 2008

OFFICE OF PETITIONS

In re Application of	:	
Irving A. Gibbs et al.	:	
Application No. 11/041,595	:	DECISION ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. 66019-69016	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 15, 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 January 10, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed October 10, 2006. Accordingly, the date of abandonment of this application is January 11, 2007. The Notice of Abandonment was mailed February 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $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

cc: **KEN PARKER**
RT. 143, PO BOX 269
HIGHLAND, IL 62249-0269

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Jackson & Co., LLP
6114 4 La Salle Avenue
Suite 507
Oakland, CA 94611-2802

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SEP 1 2 2006

OFFICE OF PETITIONS

In re Application of :
Gareth E. Alwright et al. :
Application No. 11/041,629 : DECISION ON PETITION
Filed: January 24, 2005 : TO WITHDRAW
Attorney Docket No. 3997.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 May 19, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Seong-Kung Oh and the attorneys and/or agents of the firm Jackson & Co have been revoked by the assignee of the patent application on June 16, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

David Bucci
Petitions Examiner
Office of Petitions

cc: **3Com Corporation**
350 Campus Drive
Marlborough, MA 01752

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FOLEY AND LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON, MA 02199-7610

MAILED

JUL 14 2009

OFFICE OF PETITIONS

In re Application of	:	
Bahramian et al.	:	DECISION ON PETITION
Application No. 11/041,641	:	TO WITHDRAW
Filed: January 24, 2005	:	FROM RECORD
Attorney Docket No. 079921-0102	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 22, 2009 the power of attorney to Foley and Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272- 7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Dr. M. Bahramian Impedagen LLC
Unit 3-C6 175 Brushy Plain Rd.
Branford CT 06405-2617

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/041,641	01/24/2005	Mohammad B. Bahramian	079921-0102	4616

7590 10/02/2009

Dr. M. Bahramian Impedagen LLC
Unit 3-C6 175 Brushy Plain Rd.
Branford, CT 06405-2617

EXAMINER	
PITRAK, JENNIFER S	
ART UNIT	PAPER NUMBER
1635	
MAIL DATE	DELIVERY MODE
10/02/2009	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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Mohammad B. Bahramian, Ph.D.
Impedagen, LLC
175 Brushy Plain Road, Unit 3-C6
Branford, CT 06405-2617

OCT 02 2009

In re Application of	:	
Bahramian et al.	:	
Serial No.: 11/041,641	:	Decision on Petition
Filed: January 24, 2005	:	
Attorney Docket No.: 2498/101	:	

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on August 21, 2009 to reverse the examiner's refusal to enter the after final amendment mailed June 22, 2009.

BACKGROUND

Relevant parts of the prosecution history are summarized below.

The examiner mailed to applicants a final Office action on March 4, 2009. Claims 68-76 were rejected under 35 U.S.C. § 102(b) as being anticipated by Fire et al (U.S. Patent 6,506,559). Claims 68-76 were also provisionally rejected on the ground of nonstatutory obviousness-type double patenting.

On April 23, 2009, applicant submitted an after final amendment including claim amendments, remarks and a notice of appeal.

On May 12, 2009, the examiner mailed to applicants an advisory action indicating that the after final amendment would be entered, and the rejections were maintained.

On June 22, 2009, applicants submitted a second after final amendment including claims amendments and remarks.

On July 14, 2009, the examiner mailed to applicants an advisory action indicating that the second after final amendment would not be entered. The advisory action specified that the amendments to claims 70 and 72 raise new issues regarding claim indefiniteness and scope, requiring new search and consideration.

On August 21, 2009, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

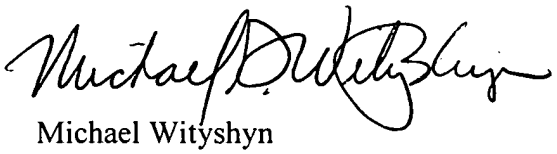
Applicants argue that the change of the word "muting" to "isolated" raised no new issues since the terms have been used interchangeably throughout the instant and parent applications. Applicants also argue that narrowing "host" to "animal cells" raised no new issues since the entire application is directed to muting expression of a gene in an animal host. These arguments are found to be persuasive.

DECISION

The petition is **GRANTED** for the reasons set forth above. The advisory action mailed July 14, 2009, indicating that the after final amendment of June 22, 2009 would not be entered is hereby **VACATED**.

The application will be forwarded to the examiner for preparation of a new advisory action indicating that the after final amendment of June 22, 2009 will be entered. Since a Notice of Appeal has been filed, applicants are still required to file a brief in compliance with 37 CFR 41.37 within two months of the date of the filing of the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal.

Should there be any questions about this decision, please contact Special Program Examiner Marianne Seidel, by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.



Michael Wityshyn
Acting Director, Technology Center 1600

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BANNER & WITCOFF , LTD
ATTORNEYS FOR CLIENT NUMBER 007412
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON, DC 20005-4051

Mail Date: 04/26/2010

Applicant	: Michael A. Chen	: DECISION ON REQUEST FOR
Patent Number	: 7653920	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/041,655	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1175** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
11/041,687	01/20/2005	2819	1250	PA2717US	11	25	3

CONFIRMATION NO. 5592

CORRECTED FILING RECEIPT

OC000000015708794

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

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)

Barry A. Hoberman, Cupertino, CA;
Daniel L. Hillman, San Jose, CA;
William G. Walker, Saratoga, CA;
John M. Callahan, San Ramon, CA;
Michael A. Zampaglione, San Jose, CA;
Andrew Cole, Sunnyvale, CA;

Assignment For Published Patent Application

Virtual Silicon Technology, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **22830**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/546,574 02/19/2004
and claims benefit of 60/586,565 07/09/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/041,687

Projected Publication Date: 08/25/2005

BEST AVAILABLE COPY

Non-Publication Request: No

Early Publication Request: No

Title

Low leakage and data retention circuitry

Preliminary Class

326

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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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS, CA 20165

MAILED

MAR 3 1 2010

OFFICE OF PETITIONS

In re Application of :
Shunpei Yamazaki et al :
Application No. 11/041,704 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. 0756-7459

This is a decision on the petition, filed March 30, 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 March 1, 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 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).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20091125

DATE : March 5, 2009

TO SPE OF : ART UNIT 2818
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/041710 / 7306999

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: _____

Steven Loke — **SPE**
2818 — **Art Unit**

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COMMISSIONER FOR PATENTS
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JUL 18 2005

In re Application of	:	
Thore K.H. Graepel et al.	:	
Serial No. 11/041,752	:	DECISION ON PETITION
Filed: January 24, 2005	:	TO MAKE SPECIAL
For: BAYESIAN SCORING	:	

Applicant's petition, filed January 24, 2005, seeks to have this application made special pursuant to the Accelerated Examination Program. The petition is GRANTED.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VIII) of the Manual of Patent Examining Procedures (MPEP).

Applicant is advised that the examiner's search will be restricted to the subject matter encompassed by the claims. In the event that the application receives a first action rejection, applicant is encouraged to arrange for an interview with the examiner, and to provide the examiner with a working copy of any proposed amendment one working day prior to the interview. Any amendment filed in response to a first action rejection which would require broadening of the field of search will be treated as an improper response.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Carole A. Boelitz
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

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JOHN F. SALAZAR
MIDDLETON & REUTLINGER
2500 BROWN & WILLIAMSON TOWER
LOUISVILLE, KY 40202

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of
Summerford, Brozzini, and Simon
Application No. 11/041,755
Filed: January 24, 2005
Attorney Docket No. ZK753-05040
For: FULL CUTOFF ARE LIGHT FIXTURE

: DECISION REFUSING STATUS
: UNDER 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a) filed September 1, 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 24, 2005, without a proper oath or declaration. Accordingly, a "Notice to File Missing Parts of Nonprovisional Application" was mailed on March 1, 2005, requiring an executed oath or declaration and a surcharge for the late filing of the oath or declaration. The instant petition was filed on September 1, 2005, along with a request for an extension of time within the fourth month.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor(s) cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims, and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee,

(4) a statement of the last known address of the non-signing inventor,

The instant petition lacks items (1) and (3) as set forth above.

As to item (1), the instant petition does not provide sufficient evidence that a complete copy of the application papers was sent to the non-signing inventor. Further to this points, Section 409.03(d) of the *Manual of Patent Examining Procedure* (MPEP) provides, in pertinent part, that:

> [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 paper should be sent to the last known address of the non-signing inventor . . .
>
> 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 CFR 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.

While the instant petition makes clear that inventor Simon has refused to join the prosecution of the application, it is not clear whether inventor Simon was provided a complete copy of the application papers or whether he refused to accept the same. In order for inventor Simon's refusal to have merit relative to the instant petition, it must be clear that he was provided with a copy of the application papers or an effort was made to provide him with the same and he refused. The renewed petition must clarify this point.

As to item (3), the petition fee of $200.00 was not found with the petition, nor was an authorization to charge a deposit account or credit card for the amount due. Any renewed petition must be accompanied by the petition fee of $200.00, as authorized by 37 CFR 1.17(g).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents,
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Phillip R. Morrow et al	:
Serial No.: 11/041,763	: PETITION TO MAKE SPECIAL
Filed: January 24, 2005	:
Attorney Docket No.: AVANIR-149CP1C1	:

This is in response to the petition filed on June 16, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

M.P.E.P. 708.02, part XI relates to petitions to make an application special for countering terrorism.

> International terrorism as defined in 18 U.S.C. 2331 includes Aactivities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (I) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnaping... The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems. Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition requesting the U.S. Patent and Trademark Office to make the application special. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Applicant meets the requirements of the above section. Therefor the petition is **GRANTED**.

The application will be acted on by the assigned 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, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at 571-272-0519 or by facsimile transmission to the general Office facsimile number, 571-273-8300.

William R. Dixon, Jr.
Special Program Examiner, Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

Mail Date: 04/20/2010

Applicant	: Timothy A. Johnson	: DECISION ON REQUEST FOR
Patent Number	: 7661034	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,771	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1199** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

Fish & Neave IP Group
Ropes & Gray LLP
One International Place
Boston, MA 02110-2624

In re Application of :
BINGHAM et al. :
Application No. 11/041,772 : DECISION ON PETITION
Filed: January 21, 2005 : TO WITHDRAW
Attorney Docket No. INSC-P01-001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 6, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Charles Larsen has been revoked by the assigness of the patent application on July 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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: Weingarten, Schurgin,
Gagnebin & Lebovici LLP
Ten Post Office Square
Boston, MA 02109

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June 5, 2007

John E. Mrozinski, Jr.
BAYER MATERIALSCIENCE LLC
100 Bayer Road
Pittsburgh, PA 15205-9741

Patent No.: 7199178 B2
Application No.: 11/041774
Inventor(s): **Martin Melchiors, et al.**
Issued: **April 3, 2007**
Title: **LOW-SOLVENT, OH-FUNCTIONAL DISPERSONS**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this mater, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Mail Stop Petitions Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-0025 ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Virginia Tolbert
For Cecelia Newman
Decisions & Certificate of Correction Branch
(703) 305-8309 or (703) **308-9390 ext 113**

vt

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BARNES & THORNBURG
P.O. BOX 2786
CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of
Mitchell Abrahamsen and Wadija Freije
Application No. 11/041,776
Filed: January 24, 2005
Title: SMALL SEGMENTS OF DNA DETERMINE ANIMAL IDENTITY AND SOURCE

DECISION REFUSING STATUS
UNDER 37 CFR 1.47(a)

This is in response to the "Petition Under 37 CFR 1.47(a)," filed May 10, 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 24, 2005 without an executed oath or declaration and naming Mitchell Abrahamsen and Wadija Freije as joint inventors.

Accordingly, on March 9, 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 May 10, 2005, the instant petition was submitted via U.S. Express Mail service. Please note, a one (1) month extension of time will be charged to deposit account no. 12-0913.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor.

Applicant lacks item (2), as set forth above.

As to item (2), an oath or declaration for the patent application in compliance with 37 CFR 1.63 and 1.64 still has not been presented. The declaration, submitted May 9, 2005, does not set forth the citizenship of the non-signing inventor. An oath or declaration in compliance with 37 CFR 1.63 and 1.64 is REQUIRED. See MPEP 409.03(a).

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents Box 1450 Alexandria, VA 22313
By FAX:	(703) 872-9306 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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CHICAGO, IL 60690-2786

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OFFICE OF PETITIONS

In re Application of
Mitchell Abrahamsen and Wadija Freije
Application No. 11/041,776
Filed: January 24, 2005
Title: SMALL SEGMENTS OF DNA DETERMINE ANIMAL IDENTITY AND SOURCE

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 July 7, 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 stated in the declaration.

The file 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) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
United States Patent and Trademark Office

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BARNES & THORNBURG, LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

In re Application of
Abrahamsen, et al.
Application No. 11/041,776
Filed: January 24, 2005
Attorney Docket No. 34579-97951

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 27, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Alice O. Martin on behalf of all attorneys of record who are associated with customer No. 23644.

All attorneys/agents associated with the Customer Number 23644 have been withdrawn.

Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant. The intervening assignee has failed to comply with 37 C.F.R. 3.71 and provide the office with a copy of a proper 3.73(b).

Telephone inquiries concerning this decision should be directed to April Wise at 571-272-1642.

for Denise Pothier
Petitions Examiner
Office of Petitions

cc: Mitchell Abrahamsen
14929 Leyte Street, NE
Ham Lake, MN 55304

cc: Lawrence B. Schook, Ph.D
Pyxis Genomics, Inc.
2201 West Campbell Park Drive
Chicago, IL 60612

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FOLEY & LARDNER LLP
111 HUNTINGTON AVENUE
26TH FLOOR
BOSTON MA 02199-7610

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Bahramian et al.	:	DECISION ON PETITION
Application No. 11/041,797	:	TO WITHDRAW
Filed: January 24, 2005	:	FROM RECORD
Attorney Docket No. 079921-0103	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 19, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that on June 22, 2009 the power of attorney to Foley & Lardner LLP was revoked by the assignee of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7751. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Dr. M. B. Bahramian
Impedagen, LLC
Unit 3-C6, 175 Brushy Plain Road
Branford CT 06405-2617

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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.
11/041,797	01/24/2005	Mohammad B. Bahramian	079921-0103	4710

7590 02/26/2010

Dr. M. B. Bahramian
Impedagen, LLC
Unit 3-C6, 175 Brushy Plain Road
Branford, CT 06405-2617

EXAMINER	
PITRAK, JENNIFER S	

ART UNIT	PAPER NUMBER
1635	

MAIL DATE	DELIVERY MODE
02/26/2010	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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Dr. M. B. Bahramian
Impedagen, LLC
Unit 3-C6, 175 Brushy Plain Road
Branford CT 06405-2617

FEB 2 6 2010

In re Application of :
Bahramian et al.
Serial No.: 11/041,797 : PETITION
Filed: January 24, 2005
Attorney Docket No.: **079921-0103**

This is in reply to the petition filed February 5, 2010 and the duplicate petition filed February 12, 2010 under 37 CFR § 1.181 wherein "This Petition is from the oath or declaration is objected to by the examiner."

DISCUSSION

It is pointed out the action of December 11, 2009 is not under final rejection. Hence, the petition is premature (see 37 CFR § 1.181(c)).

In view of the above reason, the petition is **DISMISSED**.

However, the examiner will be instructed to carefully consider applicant's arguments set forth in the petition when the next action is prepared.

Applicant may submit a renewed petition, if desired, after the action is made Final.

Any renewed petition must be submitted within TWO MONTHS of the mail date of this decision in order to be considered timely.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist
Technology Center 1600

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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Anthony J. Baerlocher	: DECISION ON REQUEST FOR
Patent Number	: 7658673	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,801	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/21/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **549** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days,** whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PYLE & PIONTEK
221 N LASALLE STREET
SUITE 2036
CHICAGO IL 60601

In re Application of
Henry, et al. :
Application No. 11/041,804 : DECISION ON
Filed: January 24, 2005 : PETITION
Attorney Docket No. IMV 400078 :

This is in response to the petition to revive under 37 CFR 1.137(b), filed August 14, 2006.

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 decision within the meaning of 5 USC 704.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on February 9, 2006. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on May 10, 2006. A Notice of Abandonment was mailed on June 23, 2006.

Receipt of the $1,400 issue fee and the $300 publication fee is acknowledged. However, petitioner has not paid the petition fee. A petition to revive under 37 CFR 1.137(b) can not be considered on the merits without payment of the fee.

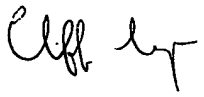
Accordingly, if petitioner wishes to revive the application under 37 CFR 1.137(b), petitioner must submit the petition fee. If petitioner seeks to withdraw the holding of abandonment (no fee required) based upon non-receipt of the Notice of Allowance, petitioner should file a petition under 37 CFR 1.181 so stating.

Further correspondence concerning this application should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

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PYLE & PIONTEK
221 N LASALLE STREET
SUITE 2036
CHICAGO IL 60601

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OFFICE OF PETITIONS

In re Application of
Henry, et al. :
Application No. 11/041,804 : DECISION ON
Filed: January 24, 2005 : PETITION
Attorney Docket No. IMV 400078 :

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed November 17, 2006.

The petition is **GRANTED**.

The holding of abandonment is **WITHDRAWN**.

The above-identified application became abandoned for failure to timely pay the issue fee as required by the Notice of Allowance mailed on February 9, 2006. This notice set a statutory period for reply of three months. No issue fee having been received, the above-identified application became abandoned on May 10, 2006. A Notice of Abandonment was mailed on June 23, 2006. Applicants filed a petition to revive under 37 CFR 1.137(b) on August 14, 2006. However, the petition was dismissed in a decision mailed on November 2, 2006, because it was not clear if applicants intended to file a petition to revive or a petition to withdraw the holding of abandonment.

With the instant petition, applicants have specified that they are filing a petition to withdraw the holding of abandonment. Applicants have fulfilled the requirements to establish nonreceipt of the Notice of Allowance. Specifically, applicants have included a copy of their docket record where the Notice of Allowance would have been entered had it been received.

The matter is being forwarded to the Office of Patent Publication for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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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Sony Corporation of America
16530 VIA ESPRILLO, MZ 7190
SAN DIEGO, CA 92127

Mail Date: 04/21/2010

Applicant	: Jianyu Roy Zheng	: DECISION ON REQUEST FOR
Patent Number	: 7668508	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,833	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1092** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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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	: Kurt A. Burton	: DECISION ON REQUEST FOR
Patent Number	: 7641096	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/041,836	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **523** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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3-10-09

Patent No. : 7,423,727 B2
Ser. No. : 11/041,873
Inventor(s) : Totzeck, et. al.
Issued : September 9, 2008
Title : LITHOGRAPHIC APPARATUS AND DEVICE MENUFACTURING METHOD
Docket No. : 1857.5510000

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

1100 New York Avenue, NW
Washington, DC 20005-3934
Atty. Dkt. No. 1857.5510000

ej

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

In re Application of :
Martin BROX, et al :
Application No. 11/041,878 : DECISION ON PETITION
Filed: January 25, 2005 : TO WITHDRAW
Attorney Docket No. 543822010900 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 2, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Deborah S. Gladstein on behalf of all attorneys of record who are associated with customer No. 25227.

All attorneys/agents associated with Customer Number 25227 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 April 11, 2007 that requires a reply by the applicant.

Telephone inquiries concerning this decision should be directed to Diane Goodwyn at 571-272-6735.

April Wise
Petitions Examiner
Office of Petitions

cc: MARTIN BROX
KLARASTR. 15
MUNICH, 80636
GERMANY

cc: SLATER & MATSIL L.L.P.
17950 PRESTON ROAD,
SUITE 1000
DALLAS, TX 75252

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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
11/041,878	01/25/2005	Martin Brox	543822010900

CONFIRMATION NO. 2634

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

OC000000024353716

Date Mailed: 06/14/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/02/2007.

- 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.

Diane Gordon

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

FORMER ATTORNEY/AGENT COPY

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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OFFICE OF PETITIONS

In re Application :
Daniel W. Van Der Weide et al. :
Application No. 11/041,886 : DECISION ON APPLICATION
Filed: January 21, 2005 : FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **032026-0855** :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705 filed December 17, 2009. Applicant requests that the determination of patent term adjustment be corrected from 739 days to 1,439 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

Patentees request that the decision on this request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Wyeth v. Dudas. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. However, the instant petition is considered in light of the Court of Appeals for the Federal Circuit's decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the of the patent term adjustment concerning those regulations until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). The $200.00 fee has been charged to the credit card provided.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to 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

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

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OFFICE OF PETITIONS

PEARL COHEN ZEDEK, LLP
PEARL COHEN ZEDEK LATZER, LLP
1500 BROADWAY, 12TH FLOOR
NEW YORK NY 10036

In re Application of :
WEINSTEIN, et al. :
Application No. 11/041,905 : DECISION ON PETITION
Filed: January 25, 2005 : TO MAKE SPECIAL UNDER
Attorney Docket No. P-7568-US : 37 CFR 1.102(c)(1)
:

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 28, 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 the passport of inventor Zeev Orbach, attesting to his age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 2623 for action on the merits commensurate with this decision.

Monica A. Graves
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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KANG INTELLECTUAL PROPERTY LAW, LLC.
214 ELM STREET, SUITE 106
WASHINGTON, MO 63090

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OFFICE OF PETITIONS

In re Application of :
Jeffrey A. MCCAY :
Application No. 11/041,917 : DECISION ON PETITION
Filed: January 24, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **77638.003** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees and to submit corrected formal drawings on or before September 25, 2009, as required by the Notice of Allowance and Fee(s) Due mailed June 25, 2009 and the Notice of Drawing Inconsistency, mailed July 22, 2009. Accordingly, the date of abandonment of this application is September 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1510 , the publication fee of $300, and corrected formal drawings , (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future

correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to the Office of Data Management for processing into a patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

Cc: **GRANT D. KANG**
214 ELM STREET, SUITE 106
WASHINGTON, DC 63090

SPE: J. Seidleck

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 6/6/07

TO SPE OF : ART UNIT 1711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/041,928 Patent No.: 7122233

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: _____

[signature] 1711
SPE **Art Unit**

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P.O. BOX 1450
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WWW.USPTO.GOV

Paper No. None

TROXELL LAW OFFICE PLLC
SUITE 1404
5205 LEESBURG PIKE
FALLS CHURCH VA 22041

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APR 28 2005

OFFICE OF PETITIONS

In re Application of :
Chung-Yue Wang et al. :
Application No. 11/041,963 : DECISION ON PETITION
Filed: January 26, 2005 :
Attorney Docket Number: :
BHT/3230-151 :
Title: METHOD AND APPARATUS FOR :
EXAMINING CORROSION OF TENDON :
EMBEDDED IN CONCRETE :

This is a decision on the petition filed March 21, 2005, requesting that Figures 1-5 be accorded a filing date of January 26, 2005, as part of the original disclosure.

The application was deposited on January 26, 2005. However, on March 7, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Incomplete Nonprovisional Application (notice)", stating that the application had not been accorded a filing date, and advising applicants that a filing date would be accorded upon the receipt of drawings. The notice set a two-month period for response.

In response, on March 21, 2005, applicants filed the present petition. The petition is further accompanied by copies of Figures 1-5 and a copy of applicants' postcard receipt acknowledging receipt of "5 sheets of drawings" in the United States Patent and Trademark Office (Office) on January 26, 2005. Applicants request that Figures 1-5 be accorded a filing date of January 26, 2005 as part of the original disclosure.

Upon review of the record, the above-mentioned figures have not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 26, 2005 included Figures 1-5, and the sheets containing these figures were subsequently misplaced in the Office.

Therefore, the application, including Figures 1-5, was complete on filing and these figures are entitled to a filing date of January 26, 2005 as part of the original disclosure.

Accordingly, the petition is **GRANTED**.

The notice mailed March 7, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary. Petitioner has requested that the publication fee be refunded to his account. The Office will assume that this is a typographical error, and the petition fee has been refunded to Petitioner's Deposit Account.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 26, 2005, using the original application papers filed on that date, as well as the Figures 1-5 submitted on March 21, 2005 and for indication in Office records that these figures were present on filing. OIPE will then mail a corrected filing receipt.

The general phone number for the Office of Petitions which should be used for status requests is (571) 272-3282. Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.

Paul Shanoski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Lee E. Cannon	: DECISION ON REQUEST FOR
Patent Number	: 7594849	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,001	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **694** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Mark C. Pickering
Law Offices of Mark C. Pickering
P.O. Box 300
Petaluma, CA 94953

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OFFICE OF PETITIONS

In re Application of	:	
Sullivan, et al.	:	
Application No. 11/042,008	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 20567-024001	:	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 05, 2006.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Mark C. Pickering has been revoked by the assignee of the patent application on September 01, 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 Patricia Volpe at 571-272-6825.

David Bucci
Petitions Examiner
Office of Petitions

cc: FISH & RICHARDSON, PC
P.O. Box 1022
Minneapolis, MN 55440-1022

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United States Patent and Trademark Office
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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/21/2010

Applicant	: Keone Streicher	: DECISION ON REQUEST FOR
Patent Number	: 7606362	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,019	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1139** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TOWNSEND AND TOWNSEND AND CREW LLP/ 015114
TWO EMBARCADERO CENTER
8TH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 05/18/2010

Applicant : Keone Streicher
Patent Number : 7606362
Issue Date : 10/20/2009
Application No: 11/042,019
Filed : 01/25/2005

: 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 **1185** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days** from the mail date of this notice, whichever is longer, to file a request for reconsideration of this PTA calculation. See 35 U.S.C. § 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4).

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this PTA calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2), and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this PTA calculation, including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right of review of the USPTO's PTA determination in the United States District Court for the District of Columbia, patentee must ensure that the steps required under 35 U.S.C. § 154 (b)(4) are taken in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. § 154(b)(4).

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Michael Blaine Brooks, P.C.
P.O. Box 1630
Simi Valley, CA 93062-1630

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OFFICE OF PETITIONS

In re Application of :
Gregg F. LUCONI, et al. :
Application No. 11/042,031 : DECISION ON PETITION
Filed: January 24, 2005 : TO WITHDRAW
Attorney Docket No. 100.005 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 30, 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 Michael B. Brooks on behalf of all attorneys of record who are associated with customer No. 24507.

All attorneys/agents associated with the Customer Number 24507 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 Monica Graves at 571-272-7253.

for David Bucci
Petitions Examiner
Office of Petitions

cc: Greg L Luconi
275 East Green Street
Apt# 1360
Pasadena, CA 91101

UNITED STATES PATENT AND TRADEMARK OFFICE

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 05/25/2010

Applicant	: Gert Van Der Meijden	: DECISION ON REQUEST FOR
Patent Number	: 7635049	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,050	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2005	: 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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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,051	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVA	6801

30593 7590 09/10/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/10/2009	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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P.O. BOX 8910
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In re Application of
JEON, BYEONG MOON
Application No. 11/042,051
Filed: January 26, 2005
For: **METHOD FOR PREDICTING AN IMAGE**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed June 26, 2009.

Applicants request a second period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,051	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVA	6801

30593 7590 07/12/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	
ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
07/12/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON
Application No. 11/042,051
Filed: January 26, 2005
For: **METHOD FOR PREDICTING AN IMAGE**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed June 08, 2010.

Applicants request a third period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,055	01/26/2005	Tomohiko Okada	1248-0766PUS1	6808

2292 7590 05/11/2007

BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER	
BEATTY, ROBERT B	

ART UNIT	PAPER NUMBER
2852	

NOTIFICATION DATE	DELIVERY MODE
05/11/2007	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH VA 22040-0747

MAY 10 2007

In re Application of:
OKADA *et al.*
Serial No.: 11/042,055
Filed: January 26, 2005
Attorney Docket No.: **1248-0766PUS1**

DECISION ON PETITION FOR REFUND

This is a decision on the request for refund filed March 02, 2007. The request has been treated as a petition under 37 CFR § 1.181, requesting a partial refund of the fees for filing a petition under 37 CFR § 1.102(d).

The petition is **DENIED**.

A review of the record reveals that a petition to make the application special was filed on October 21, 2005. No decision on the petition appears in the record.

Authorization to refund fees is set forth under 37 CFR 1.26, which states, in part, as follows:

(a) The Director may refund any fee paid by mistake or in excess of that required. A change of purpose after the payment of a fee, such as when a party desires to withdraw a patent filing for which the fee was paid, including an application, an appeal, or a request for an oral hearing, will not entitle a party to a refund of such fee.

37 CFR § 1.102(d) requires that a petition to make an application special on grounds other than those referred to in paragraph (c) of this section must be accompanied by the fee set forth in § 1.17(h).

At the time the petition was filed, the fee set forth in §1.17(h) was required. Therefore, no fees were paid by mistake or in excess. Accordingly, the request for refund must be denied.

Any inquiry regarding this decision should be directed to Clayton E. LaBalle, TQAS, at (571) 272-1594.

Richard K. Seidel, Group Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 01/30/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HUBER, JEREMIAH C	

ART UNIT	PAPER NUMBER
2621	

DATE MAILED: 01/30/2009

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.

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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,060 : DECISION ON PETITION
Filed: January 29, 2005 : TO SUSPEND UNDER
For: **METHOD FOR PREDICTING AN IMAGE** : 37 CFR § 1.103(a)

This is a decision on the petitions for suspension filed November 04, 2008 and December 29, 2008.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) *Suspension for cause.* On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

The petition filed November 04, 2008 is **DISMISSED** because it does not specify a reasonable period of time for suspension not to exceed six months.

The petition filed December 29, 2008 requests a period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. By the Amendment concurrently filed with this petition, the claims include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal &Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

The petition filed December 29, 2008 is **GRANTED.** Pursuant to applicant's request filed on December 29, 2008, action by the Office is suspended on this application under 37 CFR 1.103(a) for a period of six months. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Michael Horabik
Quality Assurance Specialist
Technology Center 2600
Communications

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P.O. BOX 8910
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In re Application of
JEON, BYEONG MOON
Application No. 11/042,060
Filed: January 26, 2005
For: **METHOD FOR PREDICTING AN IMAGE**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed January 29, 2010.

Applicants request a fourth period of suspension for 6 months. The reason for the request is the Board has not yet decided the Appeal in Application No. 10/335,331. As stated in Applicants' previous Petition to Suspend, the claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

> (a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

> Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

Mail Date: 05/05/2010

Applicant	: Chun-Nan Chen	: DECISION ON REQUEST FOR
Patent Number	: 7623424	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,083	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVC	8161

30593 7590 10/21/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	
ART UNIT	**PAPER NUMBER**
2621	

MAIL DATE	DELIVERY MODE
10/21/2009	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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RESTON VA 20195

OCT 21 2009

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of
JEON, BYEONG MOON
Application No. 11/042,083
Filed: January 26, 2005
For: **METHOD FOR PREDICTING AN IMAGE**

DECISION ON REQUEST

This is a decision on the request for continued suspension filed June 26, 2009.

Applicants request a second period of suspension for 6 months. The reason for the request is the art cited against the claims in the subject application is the same as art cited against the claims in Application No. 10/335,331. The claims of the present application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

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LEE & MORSE, P.C.
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

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APR 0 8 2009

OFFICE OF PETITIONS

In re Application of
Mark BUER
Application No. 11/042,111
Filed: January 25, 2005
Attorney Docket No. 2875.0080002

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 13, 2009.

The request is **NOT APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that all of the acts noted above have been performed. Please see the attached form SB/83 Request for Withdrawal as Attorney or Agent.

The request cannot be approved because the attorneys of record were not appointed by Customer No. 27849, as indicated.

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 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: JOHN A. CASTELLANO, ESQ.
HARNESS, DICKEY & PIERCE
11730 PLAZA AMERICA DRIVE,
SUITE 600
RESTON, VA 20190

Attachment: PTO/SB/83 – Withdrawal of Attorney or Agent

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STANDLEY LAW GROUP LLP
6300 Riverside Drive
Dublin, OH 43017

Mail Date: 04/21/2010

Applicant	: Laurier J. Vermette	: DECISION ON REQUEST FOR
Patent Number	: 7621493	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,141	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1004** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 05-02-08

TO SPE OF : ART UNIT 2852

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/042142** Patent No.: **7200355**

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: _____

Susan Lee for — SPE

2852 — Art Unit

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BANNER & WITCOFF, LTD.
1100 13TH STREET, N.W., SUITE 1200
WASHINGTON, DC 20005-4051

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OFFICE OF PETITIONS

In re Patent No. 7,224,097 :
Issue Date: May 29, 2007 :
Application No. 11/042,155 : ON PETITION
Filed: January 26, 2005 :
Attorney Docket No. 006514.00003 :

This is a decision on the petition filed October 9, 2007, which is being treated as a petition under 37 CFR 3.81(b)[1] to correct assignee's name on the front page of the above-identified patent by way of a Certificate of Correction.

The petition is **granted.**

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3210. Any questions concerning the issuance of the Certificate of Correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

This application is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] See Official Gazette of June 22, 2004

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OFFICE OF PETITIONS

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of :
Kenichi Osada, et. al. :
Application No. 11/042,172 : DECISION ON PETITION
Filed: January 26, 2005 : UNDER 37 CFR 1.55(c)
Attorney Docket No. 500.38532CC2 :

This is a decision on the petition under 37 CFR 1.55(c) filed February 19, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of priority to foreign Japanese Application No. 2000-132848 filed April 27, 2000.

The instant petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Larry N. Anagnos appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts

The petition is **GRANTED**.

This pending nonprovisional application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

On February 19, 2009, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of $1,410 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 119(a)-(d) is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed application. In order for this application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This application is being referred to the Office of Data Management via Technology Center AU 2811, for consideration by the examiner of the foreign priority claim under 35 U.S.C. § 119(a)-(d).

Any inquiries directly pertaining to this matter may be directed to the undersigned at (571) 272-3226.

Andrea Smith
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
11/042,172	01/26/2005	2811	1300	500.38532CC2	18	3

CONFIRMATION NO. 7263

CORRECTED FILING RECEIPT

20457
ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

OC000000038064995

Date Mailed: 10/01/2009

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Kenichi Osada, Kawasaki, JAPAN;
Masataka Minami, Hino, JAPAN;
Shuji Ikeda, Koganei, JAPAN;
Koichiro Ishibashi, Warabi, JAPAN;

Power of Attorney:

David Terry--20178	Gregory Montone--28141
Donald Antonelli--20296	William Solomon--28565
Melvin Kraus--22466	Ronald Shore--28577
James Dresser--22973	Carl Brundidge--29621
Donald Stout--26422	Alan Schiavelli--32087

Domestic Priority data as claimed by applicant

This application is a CON of 10/606,954 06/27/2003 ABN
which is a CON of 09/565,535 05/05/2000 PAT 6,677,649

Foreign Applications

JAPAN 11-130945 05/12/1999
JAPAN 2000-132848 04/27/2000

If Required, Foreign Filing License Granted: 03/31/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/042,172**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SEMICONDUCTOR INTEGRATED CIRCUIT DEVICE

Preliminary Class

257

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign 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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ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET
SUITE 1800
ARLINGTON, VA 22209-3873

Mail Date: 04/21/2010

Applicant	: Kenichi Osada	: DECISION ON REQUEST FOR
Patent Number	: 7612417	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,172	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2005	: 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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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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In re Application of :
YUKSEL, K. Umit et al. :
Application No. 11/042,180 : DECISION ON PETITION
Filed: January 26, 2005 : TO WITHDRAW
Attorney Docket No. **1577-217** : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 29, 2008.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request cannot be approved because there is no indication that the acts noted in the above-identified certifications have been performed.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272- 4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **SUTHERLAND ASBILL & BRENNAN LLP**
999 PEACHTREE STREET, N.E.
ATLANTA, GA 30309

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OFFICE OF PETITIONS

In re Application of :
K. Umit YUKSEL, et al :
Application No. 11/042,181 : DECISION ON PETITION
Filed: January 26, 2005 : TO WITHDRAW
Attorney Docket No. 1577-216 : FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 29, 2008.

The request is **NOT APPROVED**.

A review of the file record indicates that Mary J. Wilson 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: SUTHERLAND ASBILL & BRENNAN LLP
999 PEACHTREE STREET, NE
ATLANTA, GA 30309

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DICKSTEIN SHAPIRO LLP
1825 EYE STREET, NW
WASHINGTON, DC 20006

Mail Date: 04/22/2010

Applicant	: Chandra Mouli	: DECISION ON REQUEST FOR
Patent Number	: 7605028	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,207	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/26/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **507** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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BLACKSTONE & MARR, LTD.
105 WEST ADAMS STREET SUITE 3600
CHICAGO IL 60603

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In re Application of :
Roke et al. :
Application No. 11/042,234 : DECISION ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. 1170/40218A :

This is a decision on the petition under 37 CFR 1.181, filed June 19, 2006, to withdraw the holding of abandonment for the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office sincerely apologizes for any inconvenience to petitioners.

On August 4, 2005, the Office mailed a nonfinal Office action, which set a three-month shortened statutory period for reply. On June 1, 2006, the Office mailed a Notice of Abandonment.

In the present petition, petitioners asserted that on Monday, December 5, 2005, they filed a timely reply in response to the nonfinal Office action, accompanied by a request for an extension of time for response within the first month and an authorization to charge their Deposit Account for the necessary fees.

Upon a review of the record, the Office located the response to the nonfinal Office action and the request for an extension of time for response within the first month submitted on Monday, December 5, 2005. Additionally, the Office finance records revealed that the necessary fees were charged to petitioners' Deposit Account. The Office notes that "[w]hen the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday. 37 CFR 1.7(a). Petitioners' reply was due in the USPTO within four months from the mail date of the nonfinal Office action; *i.e.* December 4, 2005. However, as December 4, 2005, fell on a Sunday, petitioners could timely file their reply on Monday, December 5, 2005.

Accordingly, the petition to withdraw the holding of abandonment is **granted**. The Notice of Abandonment was mailed in error and is hereby withdrawn. The application is restored to pending status in view of the fact that a response was filed timely and received in the USPTO on Monday, December 5, 2005.

The matter is being referred to the Technology Center Art Unit 3746 for a review of the response submitted on December 5, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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AARON T. OLEJNICZAK
Andrus, Sceales, Starke & Sawall, LLP
Suite 1100
100 East Wisconsin Avenue
Milwaukee, WI 53202-4178

Mail Date: 05/13/2010

Applicant	: Raymond J. Donahue	: DECISION ON REQUEST FOR
Patent Number	: 7666353	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,252	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **764** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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Elsa Keller, Legal Assistant
Intellectual Property Department
SIEMENS CORPORATION
170 Wood Avenue South
Iselin NJ 08830

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AUG 17 2006
OFFICE OF PETITIONS

In re Application of :
Simofi-Llyes et al. :
Application No. 11/042,273 : DECISION ON PETITION
Filed: January 24, 2005 :
Title: Engine Cooling Motor-Module Ventilation Configuration :

This is a decision on the petition under 37 CFR 1.137(b), filed May 22, 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** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on October 19, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). An amendment was filed on November 2, 2005. An advisory action was mailed on November 16, 2005 indicating the November 2, 2005 amendment did not place the application in condition for allowance. Accordingly, this application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on May 15, 2006.

37 CFR 1.33(b) states in pertinent part:

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.

The amendment submitted on May 22, 2006 pursuant to 37 CFR 1.114 (c) has not been executed.

A four (4) month extension of time was requested. However, pursuant to 37 CFR §1.136, an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) Petitioner's six (6) month statutory period expired on April 20, 2006. Petitioner is ineligible for any extensions of time. Accordingly, deposit account number 19-2179 will be credited with $1590.00 for fees paid to acquire an extension of time.

Further Correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450
By facsimile:	(571) 273-8300
By delivery service: (FedEx, UPS, DHL, etc.)	U.S. Patent and Trademark Office Customer Service Window,

Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Elsa Keller, Legal Assistant
Intellectual Property Department
SIEMENS CORPORATION
170 Wood Avenue South
Iselin NJ 08830

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MAR 17 2008

OFFICE OF PETITIONS

In re Application of :
Simofi-Llyes et al. :
Application No. 11/042,273 : DECISION ON PETITION
Filed: January 24, 2005 :
Title: Engine Cooling Motor-Module Ventilation Configuration :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed August 29, 2006 and supplemented on January 24, 2008, 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** final agency action within the meaning of 5 U.S.C. §704.

This above-identified application became abandoned for failure to timely file a proper response to a final Office Action which was mailed on October 19, 2005. The final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). An amendment was filed on November 2, 2005. An advisory action was mailed on November 16, 2005 indicating the November 2, 2005 amendment did not place the application in condition for allowance. Accordingly, this application became abandoned on January 20, 2006. A Notice of Abandonment was mailed on May 15, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03 (c)(III)(C) and (D).

The instant petition lacks (1). Although petitioner has provided a request for continued examination and fee, petitioner has failed to provide a signed amendment as part of the submission requirement under 37 CFR 1.114(c).

Petitioner contends that the amendment submitted on May 22, 2006 was accompanied by a transmittal letter which was signed. Thus, petitioner argues the amendment was executed via the transmittal letter. Petitioner further insists that the application was entitled to an extension of time after the expiration of the extendable period.

Petitioner's arguments have been considered, but they are not convincing. 37 CFR 1.33(b) requires that amendments must be appropriately 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. The fact that the transmittal letter was signed, does not overcome the lack of signature on the amendment.

Petitioner is correct in that a petition under 37 CFR 1.137(b) does not require an extension of time.[1] However, The reply period of the final Office action and period for submission of an extension of time expired April 20, 2006. Pursuant to 37 CFR 1.136(a) an extension of time must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988) . The request for extension filed after six months of the final Office action mailed on October 19, 2005, was untimely.

---

[1] Reference to In re Application of S, stands for the premise that extension of time request filed under 37 CFR 1.136(a) filed after the expiration or statutory period should not be granted.

The fact that petitioner was trying to extend the date of abandonment to a later date, does not change the prohibition of the extension of time. The charging of the extension of time, upon the receipt of the petition and request should not be construed as acceptance of the request. Office policy dictates that monies are assessed upon the receipt of the request in the Office. The appropriateness of such assessments are later determined and may be subject to refund. As such, petitioner's contention of entitlement of an extension of time after the maximum period has expired is not well founded.

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

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STOUT, UXA, BUYAN & MULLINS LLP
4 VENTURE, SUITE 300
IRVINE, CA 92618

Mail Date: 04/21/2010

Applicant	: Henry Wei-Ming Chung	: DECISION ON REQUEST FOR
Patent Number	: 7605414	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,276	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: 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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CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC
1420 FIFTH AVENUE
SUITE 2800
SEATTLE, WA 98101-2347

Mail Date: 04/20/2010

Applicant	: Kevin John Reynolds	: DECISION ON REQUEST FOR
Patent Number	: 7603210	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,290	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1141** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SEAGATE TECHNOLOGY LLC C/O WESTMAN
CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402-3319

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APR 27 2007

OFFICE OF PETITIONS

In re Application of :
Gunderson :
Application No. 11/042,307 : DECISION ON PETITION
Filed: January 25, 2005 :
Title: Heat Assisted Hermetic Spring :
Seal

This is a decision on the petition under 37 CFR 1.137(b), filed March 27, 2007, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office Action mailed August 15, 2006. The non-final Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR §1.136(a). Accordingly, this application became abandoned on November 16, 2006. A Notice of Abandonment was mailed on March 7, 2007.

This petition is hereby **GRANTED**.

The Office hereby acknowledges the receipt of the amendment submitted with the instant petition.

This application is being forwarded to Technology Center 3600 for further processing.

Telephone inquiries concerning this matter should be directed to the undersigned at (571)272-3215.

Charlema R. Grant

Petitions Attorney

Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP/MSFT
P. O. BOX 1247
SEATTLE, WA 98111-1247

Mail Date: 04/20/2010

Applicant	: Jeremy Max Stevens	: DECISION ON REQUEST FOR
Patent Number	: 7599989	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,320	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1271** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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.

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

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FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Mitomo et al. : DECISION ON PETITION
Application No. 11/042,353 :
Filed: January 26, 2005 :
Attorney Docket No. 1095.1333 :

This is in response to the paper styled "SUPPLEMENT TO RESPONSE TO NOTICE TO FILE MISSING PARTS/PETITION UNDER 37 C.F.R. §§ 1.53(E) OR 1.182-3/PETITION TO INCORPORATE BY REFERENCE UNDER 37 C.F.R. §1.57(A)," filed December 8, 2005. Applicants request that the above-identified application be accorded a filing date of January 26, 2005, with figure 11 considered part of the original application disclosure. Alternatively, applicants request that figure 11 be considered part of the original application disclosure by virtue of an incorporation by reference statement.

Application papers in the above-identified application were filed on January 26, 2005. However, on April 20, 2005, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were notified that the application papers had been accorded a filing date; however, figure 11 described in the specification appeared to have been omitted from the application. (In addition, the Notice required payment of the missing basic filing fee, submission of an executed oath or declaration and the late surcharge).

In response, applicants timely filed the responses (declaration, fees and surcharge) to the Notice. However, applicants did not

respond to the Notice that the figure appeared to have been omitted.

A petition pursuant to 1.53(e)(2) filed more than 2 months after the mailing of the relevant Notice may be dismissed as untimely filed. In this instance, discretion will be exercised in favor of applicants the petition will not be dismissed as untimely filed. The petition will be considered on the merits.

Petitioner maintains that nineteen sheets of drawings, including Figs. 1-19, were filed with the original application. In support thereof, applicants submitted a copy of their date-stamped return postcard. In addition, petitioner submitted a copy of the full set of drawings including Fig. 11.

Alternatively, applicants argues that the application as filed included an incorporation by reference of Japanese Patent Application No. 2004-157374 and that the priority document has a Fig. 11 which corresponds to Fig. 11 of the instant application (in Japanese). Applicants request that the application be amended to include an English translation of Fig. 11 pursuant to rule 57(a).

A postcard receipt, which itemizes and properly identifies the items, which are being filed, serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioner's postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on January 26, 2005, and the papers filed there under were assigned application No. 11/042353; 2) it specifically identifies the items being filed, including "Drawings (19 Sheets (Figs. 1-19)" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioner has shown that the items denoted, including the 19 sheets of drawings, were filed on January 26, 2005.

The application papers already considered received in the Office on January 26, 2005, were reviewed along with the missing Figure 11 submitted on petition. These papers together constitute the items described on the postcard receipt as Drawings (19 Sheets (Figs. 1-19). Petitioner has shown that Figure 11 was among the items present in the application on the date of deposit and should be included in the original application papers.

Given the postcard evidence, alternative consideration pursuant to § 1.182 or § 1.57(a) is unnecessary. However, it is noted that a review of the application as filed reveals that the first sentence of the specification includes a claim for benefit of priority from the Japanese Patent Application, and an incorporation by reference statement of the prior application, as alleged.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee has been refunded to Deposit Account No. 19-3935.

The application is being forwarded to the Office of Initial Patent Examination (OIPE) for:

· further processing with a filing date of January 26, 2005, using the application papers received in the Office on that date and Figure 11 re-supplied on petition filed December 8, 2005; and

. indication in Office records, as appropriate, that 19 sheets of drawings were present on filing.

Applicants will receive appropriate notifications regarding the fees owed, if any, and other information in due course from OIPE.

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

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180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of	:	
Tatarczyk and Weichmann	:	DECISION REFUSING STATUS
Application No. 11/042,383	:	UNDER 37 CFR 1.47(a)
Filed: 25 January, 2005	:	
Atty Docket No. 232431	:	

This is in response to the petition under 37 CFR 1.47(a) filed on 20 September, 2005.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Extensions of time may be obtained in accordance with 37 CFR 1.136(a).

The above-identified application was filed on 25 January, 2005, without an executed oath or declaration. Accordingly, on 4 March, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration and a surcharge for its late filing. A two (2) month period for reply was set.

In response, on 20 September, 2005, a petition under 37 CFR 1.47(a), surcharge, and a five (5) month extension of time and fee were filed. A declaration naming Theodor Tatarczyk and Armin Weichmann, signed by joint inventor Weichmann on behalf of himself and non-signing joint inventor Tatarczyk, was also filed.

Petitioners assert that joint inventor Tatarczyk cannot be located after diligent effort.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor cannot be reached or located, notwithstanding diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee;

(4) a surcharge of $130 or $65 (small entity) if the petition and/or declaration is not filed at the time of filing the application, and

(5) a statement of the last known address of the non-signing inventor.

The petition lacks item (1).

In regards to item (1), petitioners have not shown that diligent efforts have been made to locate the non-signing inventor.[1] Petitioners should sent or give a copy of the application as filed (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor at his last known address.

If the application is returned as undeliverable, petitioners should provide a copy of an envelope showing that a letter sent to the last known address of the non-signing inventor was returned as undeliverable by the post office. Details of the efforts made to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

The letter provided with the petition does not appear to have been made by a person with first-hand knowledge of the details, and does not specify what actions were taken by what persons to contact the non-signing inventor.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application was sent or given to the inventor. If the inventor refuses in writing, petitioners must submit a copy of that written refusal with any renewed petition. If the refusal was made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of fact.

---

[1] MPEP 409.03(d).

If the envelope sent to the non-signing inventor at the last known address is returned as undeliverable by the post office, petitioners should provide a copy of the envelope showing that the application was returned as undeliverable with any renewed petition. If the inventor refuses in writing to sign, a copy of that written refusal should be provided with any renewed petition. If the inventor refuses orally, petitioners should submit details of the refusal in an affidavit or declaration of facts by a person having first-hand knowledge of the refusal.

If repeated attempts to contact the non-signing inventor are unsuccessful, petitioners will have shown that despite diligent efforts, the inventor could not be reached.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-06

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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MAY 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
Tatarczyk et al.	:	DECISION NOTING JOINDER OF
Application No. 11/042,383	:	INVENTOR AND PETITION
Filed: 25 January, 2005	:	UNDER 37 CFR 1.47(a) MOOT
Atty Dckt No. 232431	:	

Papers filed on 14 March, 2006, in response to the decision dismissing petition mailed on 14 October, 2005, included a Declaration signed by the previously non-signing inventor, Theodor Tatarczyk, in compliance with 37 CFR 1.63.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is moot; this application does not have any rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this office for any further consideration under 37 CFR 1.47(a).

This application will be referred to Technology Center Art Unit 2878 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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OCT 14 2005

OFFICE OF PETITIONS

In re Application of:	:	
Theodor Tatarczyk	:	
Application No. 11/042,387	:	DECISION REFUSING
Filed: January 25, 2005	:	STATUS UNDER
Title of Invention:	:	37 CFR 1.47(b)
APPARATUS FOR ACQUIRING AN IMAGE	:	
OF A PREDETERMINED EXTRACT OF	:	
A MOVING PRINTED PRODUCT	:	

This is in response to a Petition under 37 CFR 1.47, filed September 20, 2005, to allow 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, to make application on behalf of and as agent for all inventors. The petition is properly treated under 37 CFR 1.47(b).

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(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 on January 25, 2005, without an executed oath or declaration. This Office mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") on March 14, 2005, requiring a properly signed oath or declaration and a late filing fee, oath or declaration and surcharge.

In response to the Notice, Applicant files the instant petition and putative assignment agreement. In the petition Applicant states that the following steps were taken without success:

-trying to speak the nonsigning inventor
-speaking often to the mail box and asking for calling back
-writing some emails
-sending the documents via mail to the nonsigning inventors private address

Applicant has not provided details as to who attempted to speak with the inventor or whether the inventor provided a response, nor has applicant provided copies of the emails that were putatively sent, nor has applicant explained exactly what "documents" were sent via mail to the nonsigning inventor. The putative assignment document is in a language other than English, and an English Language translation has not been provided.

Applicable Law

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(s); (5) proof of proprietary interest; and (6) proof of irreparable harm. Applicant lacks items (1) and (5) as set forth above.

As to item (1), Applicant avers that the inventor refuse to join in the application after having been presented with the application. Where the whereabouts of the nonsigning inventor are known, what is required is that the application (specification, claims and drawings, along with the oath or declaration for signature) be presented (mailed) to the nonsigning inventor at his or her last known address, before a refusal to join the application can be alleged. Here, Applicant avers that "documents" were sent via mail to the nonsigning inventor; however, it is unclear whether the above-identified application (specification, claims and drawings) was mailed to the inventor. Applicant should clarify what "documents" were sent to the inventor.

As to item (5), applicant failed to show or provide proof that MAN Roland Druckmaschinen AG ("MAG"), or anyone other than the inventor, has sufficient proprietary interest in the subject matter to justify the filing of the application (*see* MPEP 409.03(f)). Acceptable proof would include a copy of an [executed] assignment of the invention by the inventor to the Rule 47(b) applicant; a copy of proof that the inventor has agreed in writing to assign the invention to the 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 47(b) applicant.

Here, the putative assignment is in a language other than English, and therefore cannot be verified. An English Language Translation of the assignment is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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180 NORTH STETSON AVENUE
CHICAGO, IL 60601-6780

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APR 19 2006
OFFICE OF PETITIONS

In re Application of:	:	
Theodor Tatarczyk	:	
Application No. 11/042,387	:	DECISION NOTING
Filed: January 25, 2005	:	JOINDER OF
Title of Invention:	:	INVENTOR
APPARATUS FOR ACQUIRING AN IMAGE	:	
OF A PREDETERMINED EXTRACT OF	:	
A MOVING PRINTED PRODUCT	:	

This is in response to a Request for Reconsideration of Petition Under 37 CFR 1.47(b) and Submission of Missing Parts, filed March 14, 2006, noting the joinder of the inventor.

In view of the joinder of the inventor, further consideration under 37 CFR 1.47(a) is not necessary and the Reconsideration of Petition is considered to be moot. This application does not have any Rule 1.47(a) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(a).

The Declaration has been entered and made of record.

This application is being returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

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

STEVEN W WEINRIEB
LAW OFFICES OF STEVEN W. WEINRIEB
8717 COLD SPRING
POTOMAC MD 20854

COPY MAILED

JUN 18 2009

OFFICE OF PETITIONS

In re Application of	:	
Cheryl L. Panasik, et al.	:	
Application No. 11/042,389	:	DECISION ON PETITION
Filed: January 25, 2005	:	
Attorney Docket No. 14962	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 17, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed February 26, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). A one (1) month extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 27, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election/amendment, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

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

Chris Bottorff
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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AMGEN INC
1120 VETERANS BOULEVARD
SOUTH SAN FRANCISCO CA 94080

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JUL 13 2009

OFFICE OF PETITIONS

In re Application of :
Kim, et al. :
Application No. 11/042,398 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. A-868A :

This is a decision on the petition to revive under 37 CFR 1.137(b), filed June 9, 2009.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to timely file a reply to the final Office action mailed August 15, 2008. This Office action set a shortened statutory period for reply of three (3) months. No extensions of time under 37 CFR 1.136(a) were obtained. No reply having been received, the application became abandoned on November 16, 2008. The Office mailed a Notice of Abandonment on April 9, 2009.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply to the final Office action in the form of an Amendment.

The application is being forwarded to Group Art Unit 1625 for consideration of the Amendment filed June 9, 2009.

Telephone inquiries concerning this decision should be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, VA 22313-1450

Date : 4/6/2007
Patent No. : 6,951,059 B2
Inventor(s) : Moskowitz et al.
Issue Date : October 4, 2005
Title : **COMPASS-BASED INDICATOR WITH MAGNETIC SHIELDING**
Doc./File No. : 1023-257US02

Re: Certificate of Correction

Consideration has been given your request for a certificate of correction, for the above-identified patent under the provisions of Rule 1.322 and 1.323.

Respecting the alleged error(s) in your request, in column 14, line 56, in the patent, is/are printed in accordance with the record in the Patent and Trademark Office, as passed to issued by the examiner. There being no fault on the part of the Patent and Trademark Office, it has no authority to issue a certificate of correction under the provision of 1.322.

In view of the foregoing, your request for certificate of correction is hereby denied. However, further consideration will be given these matters, upon receipt of a request for certificate of correction under the provisions of 1.323, accompanied by the appropriate fee which is presently $100.

In view of the foregoing, your request for certificate of correction in this matter is hereby denied.

Further consideration will be given concerning this matter upon receipt of a request for **Reconsideration** (reconsideration should be accompanied by supporting document(s) such as, amendment, postcard receipt, 1449/892, etc.) and should be filed and directed to Decisions & Certificates of Correction Branch, accompanied by the appropriate fee which is presently $100 if necessary.

BEST AVAILABLE COPY

Ernest C. White, *LIE* (703) 308-9390 ext.#122
Cecelia B. Newman, *Supervisor* (703) 308-9390 ext. #101
Decisions & Certificates of Correction Branch

SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

SHARP KABUSHIKI KAISHA
C/O KEATING & BENNETT, LLP
1800 Alexander Bell Drive
SUITE 200
Reston, VA 20191

Mail Date: 04/20/2010

Applicant	: Hirohiko Nishiki	: DECISION ON REQUEST FOR
Patent Number	: 7586131	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,406	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

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FEB 05 2007

OFFICE OF PETITIONS

SHOTSPOTTER, INC.
3515 RYDER STREET
SANTA CLARA CA 95051

In re Application of :
Baxter, et al. : DECISION ON PETITION
Application No. 11/042,414 :
Filed: January 24, 2005 :
For: GUNSHOT DETECTION SENSOR :
WITH DISPLAY :

This is a decision on the petition under 37 CFR 1.137(b), filed October 10, 2006 to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Notice to File Missing Parts of Provisional Application mailed April 11, 2005. The Notice set a two month shortened statutory period of time for reply. No petition for extension of time in accordance with 37 C.F.R. § 1.136 was timely submitted. Notice of Abandonment was mailed September 21, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply 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 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The instant petition has been reviewed and found in compliance with the provisions of 37 C.F.R. § 1.137(b). Accordingly, the failure to timely submit a proper reply to the Notice is accepted as having been unintentionally delayed.

The requested power of attorney/change of correspondence address has not been entered into the record as it hasn't been properly authorized by each inventor. Correction is required. All future correspondence will be directed to the correspondence address of

record until such time as appropriate instruction and supporting documentation is submitted to the contrary.

This application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: RON JACOBS
LUMEN Intellectual Property Services
2345 Yale Street, 2nd Floor
Palo Alto, CA 94306-1429

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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FELLERS, SNIDER, BLANKENSHIP, BAILEY & TIPPENS, P.C.
100 NORTH BROADWAY
SUITE 1700
OKLAHOMA CITY, OK 73102-8820

MAILED

JAN 13 2006

TECHNOLOGY CENTER 2100

In re Application of: LUBBERS
Application No. 11/042,424
Filed: January 25, 2005
For: WRITE ON REFERENCE MESH

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed 14 December 2005 under 37 C.F.R. §1.102(d) and M.P.E.P. §708.02 (VIII): Accelerated Examination, to make the above-identified application special.

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.

In those instances where the request for this special status does not meet all the prerequisites set forth above, **applicant will be notified and the defects in the request will be stated**. The application will remain in the status of a new application awaiting action in its regular turn. In those instances where a request is defective in one or more respects,

applicant will be given one opportunity to perfect the request in a renewed petition to make special. If perfected, the request will then be granted. If not perfected in the first renewed petition, any additional renewed petitions to make special may or may not be considered at the discretion of the Technology Center (TC) Special Program Examiner.

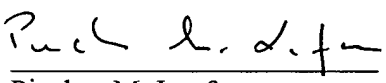
The petition filed 14 December 2005 fails to adequately meet requirement (e) of the criteria set forth above. The discussion of the references deemed most closely related is not sufficiently detailed. The description of each reference is only a few sentences long and gives only a cursory description. The description also fails to point to specific sections of the reference, e.g., column and line numbers or paragraph numbers. Additionally, the discussion of the references does not point out with the particularity required by 37 CFR 1.111(b) and (c) how the claimed subject matter is patentable over the references. The limitations purported to distinguish claim 14 from the references do not appear in claim 14. I.e., the purported excerpt from claim 14 is not an excerpt from claim 14. Additionally, the discussion purports to distinguish claim 21 from the references. However, there is no claim 21 of record.

Finally, it is suggested that if the identical statement is being made to distinguish each reference from an independent claim, as in the instant petition, then the statement should simply be made once in the petition. (E.g., "Regarding independent claim 1, none of the references disclose . . . .")

Petition to Make Special **DISMISSED**.

Petitioner is given one opportunity to perfect the petition. Any request for reconsideration must be filed within TWO MONTHS of the mail date of this decision.

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.



Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

ds

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FEB 23 2007

Technology Center 2100

Fellers, Snider, Blankenship, Bailey & Tippens, P.C.
100 North Broadway
Suite 1700
Oklahoma City, OK 73102-8820

In re Application of: Clark LUBBERS
Application No. 11/042,424
Filed: January 25, 2005
For: WRITE ON REFERENCE MESH

DECISION ON PETITION FOR ACCELERATED EXAMINATION UNDER M.P.E.P. §708.02(VIII)

This is a decision on the petition, filed 14 December 2005, and the request for reconsideration of adverse decision, filed 13 March 2006, requesting the grant of special status based on M.P.E.P. §708.02, Section VIII.

M.P.E.P. §708.02, Section VIII, which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. §1.102(d), states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

(a) Submits a petition to make special accompanied by the fee set forth in 37 CFR §1.17(i);

(b) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;

(c) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

(d) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and

(e) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR §1.111(b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission meets all the criteria set out above, accordingly, the Petition is **GRANTED**.

The application file is being forwarded to the Examiner of Record for accelerated examination according to the procedures set forth in M.P.E.P. §708.02, Section VIII.

Any inquiry concerning this decision should be directed to Mano Padmanabhan whose telephone number is (571) 272-4210.

Mano Padmanabhan
WQAS
Technology Center 2100
Computer Architecture, Software, and
Information Security

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 MONICA H CHOI
P O BOX 3424
DUBLIN OH 43016-0204

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OCT 26 2006

OFFICE OF PETITIONS

In re Patent of	:	
Yu, et al.	:	
Issue Date: April 25, 2006	:	DECISION GRANTING
Application No. 11/042,426	:	PETITION
Filed: January 25, 2005	:	
Attorney Docket No. 02-22A	:	

This is a decision on the petition under 37 CFR 1.181, filed May 15, 2006 (certificate of mailing date May 12, 2006), requesting that the Office accept the correction of the assignee data on the front page of the above-identified patent.

The petition under 37 CFR 1.181 is **GRANTED**.

A Notice of Allowance and Fee(s) Due was mailed on August 11, 2005. Petitioners filed a Issue Fee Transmittal, a check for $1,406.00 and a Fee Address Indication Form on August 23, 2005. This fact is evidenced by petitioners' date stamped postcard receipt that shows the items were received in the Office on August 23, 2005. A comparison of the August 23, 2005 Issue Fee Transmittal in the application file and the copy of the Issue Fee Transmittal submitted with the present petition reveals major discrepancies. The Issue Fee Transmittal in the application file is mostly blank, except for a few handwritten items and it is not signed. The Issue Fee Transmittal submitted with the present petition is fully completed (including the assignee field) and typed. The few handwritten items in the Issue Fee Transmittal in the application file correspond to typewritten items in the Issue Fee Transmittal submitted with the present petition. It is noted that the Issue Fee Transmittal in the application file does not show an Office post-mark stamped thereon.

Petitioners state that the Issue Fee Transmittal submitted with the present petition was the one that was filed on August 23, 2005.

Given the irregularities in the record with respect to the August 23, 2005 Issue Fee Transmittal, the petition is granted.

The file is being forwarded to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Any inquiries pertaining to this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

KENYON & KENYON LLP
ONE BROADWAY
NEW YORK, NY 10004

Mail Date: 04/21/2010

Applicant	: Axel Heinstein	: DECISION ON REQUEST FOR
Patent Number	: 7634905	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **887** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SQUIRE SANDERS & DEMPSEY LLP
TWO RENAISSANCE SQUARE
40 NORTH CENTRAL AVENUE, SUITE 2700
PHOENIX AZ 85004-4498

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
John C. OPIE
Application No. 11/042,472
Filed: January 24, 2005
Attorney Docket No. **65607.00045**

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 5, 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 David E. Rogers 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 sole named signing inventor at the address below until otherwise properly notified by the applicant.

The application became abandoned for failure to timely respond to the Office action mailed February 5, 2007.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-7253.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

cc: **JOHN C. OPIE**
8310 NORTH VIA DE LAGO
SCOTTSDALE, AZ 85258

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Commissioner for Patents
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Alexandria, VA 22313-1450
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DIW Jul-05

SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON DC 20037

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JUL 0 5 2005

OFFICE OF PETITIONS

In re Application of	:	
Higuchi et al.	:	
Application No. 11/042,481	:	ON PETITION
Filed: 26 January, 2005	:	
Atty Docket No. Q85841	:	

This is a decision on the petition to accord a filing date, filed on 27 May, 2005, which is treated as a petition under 37 CFR 1.53 requesting that the above-identified application, including 26 pages of specification and one (1) sheet of drawings, be accorded a filing date of 26 January, 2005.

The petition is granted.

On 26 January, 2005, the application was filed.

On 28 April, 2005, Initial Patent Examination Division mailed a Notice of Incomplete Nonprovisional Application, stating that, *inter alia*, the specification was missing and that the application had been deposited without drawings. The Notice stated that the filing date would be the date of receipt of the missing specification in accordance with 35 U.S.C. § 112 and drawings in accordance with 35 U.S.C. § 113. An executed oath or declaration was also required.

In response, on 27 May, 2005, *inter alia*, the present petition, 26 pages of specification, including the claims, one (1) sheet of drawings, and an oath or declaration. Petitioners argue that the 26 pages of specification and one (1) drawing sheet were filed with the other application papers on 26 January, 2005, but were subsequently misplaced in the U.S. Patent and Trademark Office (Office). In support, a copy of petitioners' postcard receipt

was supplied with the present petition. The postcard receipt shows an Office date stamp of 26 January, 2005, and identifies the application by the inventors' names, invention title, and attorney docket number, and acknowledges receipt of, *inter alia*, 26 pages of specification, 1 page of abstract, and one sheet of drawings. Petitioners request that the application, including the 26 pages of specification and one (1) sheet of drawings, be accorded a filing date of 26 January, 2005.

A review of the record reveals that no pages of specification or sheets of drawings received on 26 January, 2005, are located among the application papers received on that date. However, the evidence is convincing that the application papers deposited on 26 January, 2005, included 26 pages of specification and one (1) sheet of drawings, which were subsequently misplaced in the Office. Therefore, the application, including 26 pages of specification and one (1) sheet of drawings, is entitled to a filing date of 26 January, 2005.

In view of the above, the petition is granted. No petition fee is due and none has been charged.

The Notice mailed on 28 April, 2005, is vacated to the extent that it states that the application was incomplete.

The application will be processed with the copy of 26 pages of specification, one (1) page of abstract, and one (1) sheet of drawings supplied on 27 May, 2005, as a part of the original disclosure.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of 26 January, 2005, using the application papers filed on that date, and the copy of 26 pages of specification and one (1) sheet of drawings supplied with the present 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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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SHEEHAN PHINNEY BASS & GREEN, PA
C/O PETER NIEVES
100 ELM STREET
MANCHESTER, NH 03105-3701

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MAR 2 7 2008

OFFICE OF PETITIONS

In re Application of
Russell J. SCHWARTZ
Application No. 11/042,484
Filed: January 24, 2005
Attorney Docket No. 12683-6105

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 12, 2008.

The request is **NOT APPROVED**.

The Office cannot approve the request at this time since the reason provided does 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, "if paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reason set forth in the request, File transfer due to sale, 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.

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: DAVIS BUJOLD & DANIELS, P.L.L.C.
112 PLEASANT STREET
CONCORD, NH 03301

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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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Robert J. Dugan	: DECISION ON REQUEST FOR
Patent Number	: 7668196	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,488	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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INTERNATIONAL BUSINESS MACHINES CORPORATION
Richard Lau
IPLAW DEPARTMENT / Bldg 008-2
2455 SOUTH ROAD - MS P386
POUGHKEEPSIE, NY 12601

Mail Date: 04/20/2010

Applicant	: Robert J. Dugan	: DECISION ON REQUEST FOR
Patent Number	: 7668196	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,488	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1009** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
11/042,499	01/24/2005	2821	1000	20041365-US-NP/GCN-113(US	6	2	1

CONFIRMATION NO. 6019

00909
PILLSBURY WINTHROP SHAW PITTMAN, LLP
P.O. BOX 10500
MCLEAN, VA 22102

CORRECTED FILING RECEIPT

OC000000015790527

Date Mailed: 04/20/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Gregory P. Schmitz, Los Gatos, CA;
Michael B. Heaney, Palo Alto, CA;
Stephen B. Jackson, La Honda, CA;
John R. Duquette, Brighton, MI;
Steve King, Dexter, MI;
Tin Pham, Residence Not Provided;

Assignment For Published Patent Application

PALO ALTO RESEARCH CENTER INCORPORATED

Power of Attorney:

Mark Costello--31342
Nola McBain--35782
Daniel Curtis--39159
Kent Chen--39630
Linda Robb--41273

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/548,284 02/27/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris

Convention, is US11/042,499

Projected Publication Date: 09/01/2005

Non-Publication Request: No

Early Publication Request: No

Title

Checkerboard refresh

Preliminary Class

315

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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MORRISON & FOERSTER, LLP
12531 HIGH BLUFF DRIVE, SUITE 100
SAN DIEGO, CA 92130

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FEB 21 2008

In re Application of :
SPITLER, et al. :
Application No. 11/042,514 : DECISION ON PETITION
Filed: January 24, 2005 : TO WITHDRAW
Attorney Docket No. **IDM0023-201C3** : 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 31, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to **MORRISON & FOERSTER, LLP** has been revoked by the assignee of the patent application on September 5, 2007 and re-submitted October 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **GLOBAL PATENT GROUP - IDM**
MS. LAVERN HALL
10411 CLAYTON ROAD, SUITE 304
ST. LOUIS MO 63131

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OFFICE OF PETITIONS

Morrison & Foerster LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

In re Application of	:	
Paul Colton et al.	:	
Application No. 11/042,532	:	DECISION ON PETITION
Filed: January 24, 2005	:	TO WITHDRAW
Attorney Docket No. 584422000100	:	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 22, 2007.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on June 9, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Clause Eight Intellectual Property Services**
P.O. Box 131270
Carlsbad, CA 92013

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ALSTON & BIRD, LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

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JAN 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Luc T. Nguyen et al.	:	DECISION ON PETITION
Application No. 11/042,539	:	TO WITHDRAW
Filed: January 25, 2005	:	FROM RECORD
Attorney Docket No. 49641/284870	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R § 1.36(b), filed December 6, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Karl H. Koster on behalf of all attorneys/agents associated with customer number 00826. All attorneys/agents have been withdrawn.

Applicant is advised that there is no attorney of record.

The correspondence address has been changed and is copied below. All future correspondence will be mailed to the last known address of the assignee of record in 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: Zolve
11445 Johns Creek
Duluth, GA 30097

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/042,539	01/25/2005	Luc T. Nguyen	49641/284870

CONFIRMATION NO. 6172

826
ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

POWER OF ATTORNEY NOTICE

OC000000027927532

Date Mailed: 01/25/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/06/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/kainabinet/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

OK TO ENTER: /DV/ (01/06/2010)

GLM:gh 12/16/08 5437-58514-02 1049093

FILED VIA EFS
Attorney Matter No. 5437-58514-02

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Scarborough et al.
Patent No. 7,310,626
Issued: December 18, 2007
Application No. 11/042,544
Filed: January 24, 2005
Confirmation No. 6158
For: ELECTRONIC EMPLOYEE SELECTION SYSTEMS AND METHODS
Examiner: Joseph P. Hirl
Art Unit: 2129
Attorney Reference No. 5437-58514-02

CERTIFICATE OF EFS-Web TRANSMISSION

I hereby certify that this paper and any documents referred to as being attached or submitted herewith are being filed with the United States Patent and Trademark Office via the Electronic Filing System (EFS)-Web on the date shown below, as of the submitter's local time.

Attorney or Agent for Applicant(s) G. Lo. Maurer

Date E-Filed 2.3.09

Submitter's City/State: Portland, Oregon

FILED VIA EFS

REQUEST FOR CERTIFICATE OF CORRECTION

The following printing errors were noted in comparing the printed patent with the papers in the attorneys' files:

On the Cover:

In Other Publications, "/systesms/" should read --/systems/--.

In Other Publications, "Assess v.2:" should read --Assess v2:--.

In Other Publications, "Screen1htm" should read --Screen1.htm--.

In Other Publications, "SIGPCR" should read --SIGCPR--.

In Other Publications, "Applications" should read --Applicants--.

In Other Publications, "newsarchives.orsarchives" should read --newsarchives/orsarchives--.

In Other Publications, "%Fp1%" should read --%2Fp1%--.

In Other Publications, "February 1, 1999" should read --February 4, 1999.--.

In Other Publications, "pages 22-23" should read --pages 22-33--.

In Other Publications, "Completed Assignment" should read --Completed Assessment--.

In Other Publications, "The Measurement of" should read --The Measure of--.

In Other Publications, "The Measurement of" should read --The Measure of--.

In Other Publications, "Lenth" should read --Length--.

In the Specification:

Column 7, line 53, "biomedicial" should read --biomedical--.

Column 26, line 4, "As" should read --A--.

Column 34. line 51, "X and y)" should read --X and Y)--.

Column 35, line 2, "Since $_x^{2}$" should read --Since x^2--.

Column 36, line 40, "Due to issues of $_x^{2}$" should read --Due to issues of x^2--.

Column 37, line 59, "S'were" should read --S' were--.

In the Claims:

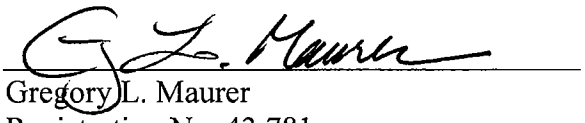
Column 44, line 40, "of the least one of the job applicant" should read -- of the at least one of the job applicants--.

Since not all of the errors are attributable to the Patent Office, enclosed is the fee of $100.00 pursuant to 37 C.F.R. 1.20(a). The preceding corrections remedy mistakes of a typographical nature and/or minor character. The Certificate of Correction is enclosed to make formal notice of the errors in the referenced patent.

Respectfully submitted,

KLARQUIST SPARKMAN, LLP

One World Trade Center, Suite 1600
121 S.W. Salmon Street
Portland, Oregon 97204
Telephone: (503) 595-5300
Facsimile: (503) 595-5301

By 
Gregory L. Maurer
Registration No. 43,781

cc: Docketing

Staple
Here
Only

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO. : 7,310,626

DATED : December 18, 2007

INVENTOR(S) : Scarborough 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:

On the Cover:

In Other Publications, "/systesms/" should read --/systems/--.

In Other Publications, "Assess v.2:" should read --Assess v2:--.

In Other Publications, "Screen1htm" should read --Screen1.htm--.

In Other Publications, "SIGPCR" should read --SIGCPR--.

In Other Publications, "Applications" should read --Applicants--.

In Other Publications, "newsarchives.orsarchives" should read --newsarchives/orsarchives--.

In Other Publications, "%Fp1%" should read --%2Fp1%--.

In Other Publications, "February 1, 1999" should read --February 4, 1999.--.

In Other Publications, "pages 22-23" should read --pages 22-33--.

In Other Publications, "Completed Assignment" should read --Completed Assessment--.

In Other Publications, "The Measurement of" should read --The Measure of--.

In Other Publications, "The Measurement of" should read --The Measure of--.

In Other Publications, "Lenth" should read --Length--.

In the Specification:

Column 7, line 53, "biomedicial" should read --biomedical--.

Column 26, line 4, "As" should read --A--.

Column 34. line 51, "X and y)" should read --X and Y)--.

Column 35, line 2, "Since $_x{}^{2}$" should read --Since x^2--.

Column 36, line 40, "Due to issues of $_x{}^{2}$" should read --Due to issues of x^2--.

Column 37, line 59, "S'were" should read --S' were--.

In the Claims:

Column 44, line 40, "of the least one of the job applicant" should read -- of the at least one of the job applicants--.

MAILING ADDRESS OF SENDER:
Klarquist Sparkman, LLP
One World Trade Center, Suite 1600
121 SW Salmon Street
Portland, Oregon 97204

PATENT NO. 7,310,626
No. of add'l copies_____
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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/16/09

TO SPE OF : ART UNIT 2129 Joseph Hirl

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/042544 Patent No.: 7316026

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**.

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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:

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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: _____

enter

/DavidVincent/ SPE 2129

SPE _____ **Art Unit**

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DEC 22 2008

OFFICE OF PETITIONS

In re Application of :
Ina, et al. :
Application No.: 11/042,545 : DECISION
Filing Date: 26 January, 2005 :
Attorney Docket No. 1035-568 :

This is a decision on the petition filed on 18 November, 2008, supplemented on 16 December, 2008, and properly considered as a petition requesting withdrawal of the holding of abandonment under 37 C.F.R. §1.181.

The petition to withdraw the holding of abandonment under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

BACKGROUND

The record reflects that:

Petitioner failed to reply timely and properly to the final Office action (copy enclosed) mailed on 15 April, 2008, with reply due absent extension of time on or before 15 July, 2008.

The application went abandoned after midnight 15 July, 2008.

The Office mailed a Notice of Abandonment on 7 November, 2008.

On 18 November, 2008, Petitioner filed a petition, and supplemented it on 16 December, 2008, seeking withdrawal of the holding of abandonment under the provisions of 37 C.F.R. §1.181, and averred, *inter alia*, non-receipt due to the Office error (and the apparent return of the mailing to the Office by the U.S. Postal Service (USPS) on or about 16 April, 2008). Petitioner's petition and supplement of the record included, *inter alia*, a copy of the docket sheet for the application, a

copy of the due-date reply docket/calendar for the firm, a statement of non-receipt, search and non-discovery, discussion of the docketing system and statement of its reliability.

Thus, Petitioner appears to have satisfied the showing requirements under the rule as set forth at MPEP §711.03(c)(I).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application. Thus, now if one wishes to know the progress in and/or status of an application or the accuracy of the data therein, one need only look at the file online.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[1]

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[2],[3]

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

---

[1] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office). See specifically, the regulations at 37 C.F.R. §10.18.

[2] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[3] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. 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.))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the7 November, 2008, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center/AU (TC/AU) 2871 for further processing in due course—including the re-mailing of the 15 April, 2008, Office action.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[4]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,545	01/26/2005	Keiichi Ina	1035-568	6161

23117 7590 04/15/2008

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON, VA 22203

EXAMINER	
LAWSON, MATTHEW P	
ART UNIT	**PAPER NUMBER**
2871	
MAIL DATE	**DELIVERY MODE**
04/15/2008	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.

Office Action Summary	Application No.	Applicant(s)	
	11/042,545	INA ET AL.	
	Examiner	Art Unit	
	MATTHEW P. LAWSON	2871	

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 October 2007*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *24,25,27,28 and 30-40* 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) *24,25,27,28,30-40* 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 *23 October 2007* 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 *5 Jul 07;16 Jul 07;6 Sept 07;17 Sept 07;15 Nov 07*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. Applicant's amendment filed 23 October 2007 has been received and entered. **Claims 24, 25, 27, 28 and 30-40** are currently pending in this application.

Information Disclosure Statement

2. Information disclosure statements (IDS) were submitted on 05 July 2007, 16 July 2007, 06 September 2007, 17 September 2007 and 15 November 2007, all after the mailing date of the Non-Final Office Action on 29 June 2007. The submission is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statements have been considered by the examiner.

Drawings

3. The corrected drawings filed 23 October 2007 have been reviewed and are accepted by the examiner.

Terminal Disclaimer

4. The terminal disclaimer filed on 23 October 2007 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of any patent issuing from Application Ser. No. 11/047,820 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Claim Objections

5. **Claims 32, 35, 36 and 39** are objected for the following informalities: the phrase "regardless of horizontal lines" found in these three claims is not specific. Examiner suggests correcting the claims to read: --... wherein [the variable] is held constant across the display device in a horizontal direction--, or something similar.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 24, 25, 27, 28, and 30-40** rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. Regarding claims 24 and 33, the limitation "wherein Csd2 is zero" renders the claims indefinite. Claim 24, from which claim 33 depends, positively recites a capacitance formed between a pixel electrode and a neighboring source bus line, which implies a capacitance having a nonzero value. Therefore it is unclear whether the claims are drawn to a display device wherein there is capacitance between a pixel electrode and a neighboring data line, or a display device wherein there is *no* capacitance between a pixel electrode and a neighboring data line. Since the two embodiments are mutually exclusive, the claims are held to be vague and indefinite.

9. Furthermore, regarding claim 33, it is also unclear how the capacitance Csd2 between a pixel electrode and a neighboring source bus line can be zero, since it is understood in the art that a small, though nonzero, capacitance will exist between any two conductors, such as a pixel electrode and a neighboring source bus line, separated by a dielectric, such as an insulating film.

10. Regarding claims 25 and 40, the limitation "wherein L2 is zero" renders the claims indefinite. Claim 25, from which claim 40 depends, positively recites an overlap formed between a pixel electrode and a neighboring source bus line, which implies an overlap having a nonzero value. Therefore it is unclear whether the claims are drawn to a display device wherein there is an overlap between a pixel electrode and a neighboring data line, or a display device wherein there is *no* overlap between a pixel electrode and a neighboring data line. Since the two embodiments are mutually exclusive, the claims are held to be vague and indefinite.

11. Regarding claims 34 and 37, the limitation "wherein S2 is zero" renders the claims indefinite. Claim 34, from which claim 37 depends, positively recites an area of overlap formed between a pixel electrode and a neighboring source bus line, which implies an overlap having a nonzero value. Claim 24 also positively recites a capacitance formed between a pixel electrode and a neighboring source bus line as discussed above, which also implies a nonzero area of overlap. Therefore it is unclear whether the claims are drawn to a display device wherein there is an area of overlap

between a pixel electrode and a neighboring data line, or a display device wherein there is *no* area of overlap between a pixel electrode and a neighboring data line. Since the two embodiments are mutually exclusive, the claims are held to be vague and indefinite.

Response to Arguments

12. Applicants' arguments with respect to the claims have been considered but are not persuasive.

13. In response to applicants' arguments that Kawahata fails to show the capacitance, and thus the length and area of overlap, formed between a pixel electrode and a first source bus line which provides a data signal to said pixel electrode to be greater than the capacitance, etc., formed between said pixel electrode and a second source bus line which does not apply a data signal to said pixel electrode, the examiner disagrees.

14. Specifically, in Fig. 1 of Kawahata, it can be seen that the area of overlap between the pixel electrodes (6) and the source bus lines (2) is greater on the left side of the pixel electrode than on the right side of the pixel electrode. It is clear from the figure that the source bus line on the left side of a pixel electrode is the source bus line that provides a data voltage to that particular pixel electrode via the TFT (11), and that the source bus line on the right side of the pixel electrode is the source bus line that provides a data voltage to a neighboring pixel electrode, i.e. not to the same pixel electrode. It is also explicitly shown in Fig. 2 of Kawahata that the width, or length, of the

overlap, x2, on the left side of a pixel electrode (6) is greater than the overlap, x1, which is the overlap on the right side of a pixel electrode.

15. Since Kawahata clearly shows the length of the overlap, and thus the area and capacitance, between the pixel electrode and the source bus line which provides a data signal to said pixel electrode to be greater than the length of overlap, etc., between said pixel electrode and the neighboring source bus line which does not provide a data signal to the same pixel electrode, applicants' arguments against the Kawahata reference are not found to be persuasive, and the previous rejections have been maintained.

16. It should be noted that Kawahata does indeed also show the opposite condition, wherein the overlap of the pixel electrode and the source bus line which provides a data signal to said pixel electrode is less than the overlap of the same pixel electrode and a neighboring data signal line. However, this condition is shown in Figs. 5 and 6 of Kawahata, where it can be seen that the TFT has switched positions from the left side to the right side of a pixel region.

Claim Rejections - 35 USC § 103

17. 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.

18. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

19. **Claims 24, 25, 27, 28, 30 and 31** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kawahata, US Pat. No. 6,507,375 (provided by applicant) in view of Matsuo, US. Pat. No. 5,822,026.

20. Regarding claim 24, Kawahata discloses a display device, comprising:

a. a plurality of source bus lines;

b. an insulating film covering the plurality of source bus lines;

c. a plurality of pixel electrodes; and that

d. a capacitance formed between one of the plurality of pixel electrodes and a first source bus line is larger than a capacitance formed between said one of the plurality of pixel electrodes and a second source bus line, which is a next source bus line from the first source bus line, provided on an opposite side of

said one of the plurality of pixel electrodes from the first source bus line, and which does not provide a data signal voltage to said one of the plurality of pixel electrodes (Kawahata, Figs. 1, 2; col. 4, lines 7-42).

21. Specifically, Kawahata discloses the length of the overlap *x2* between a pixel electrode and a source electrode to be larger than an overlap *x1* between a neighboring pixel and the same source electrode (Kawahata, Figs. 1, 2). The lengths of the overlapping regions as disclosed by Kawahata are proportional to the capacitances formed by each of the overlapping regions. Kawahata thereby discloses the capacitance formed by the overlap *x2* to be larger than the capacitance formed by *x1*.

22. Kawahata fails to disclose the plurality of source bus lines to each have a continuous S-bend shape provided with concave regions and the plurality of pixel electrodes to be each provided in a concave region at least partially.

23. However, Matsuo discloses a liquid crystal display device wherein a plurality of source bus lines each has a continuous S-bend shape provided with concave regions and a plurality of pixel electrodes are each provided in a concave region at least partially (i.e. "in a delta arrangement," Matsuo, Fig 3; col. 7 line 7-59).

24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display device of Kawahata to have the delta pixel configuration of Matsuo, in order to achieve a higher picture quality in the display device (Matsuo, col. 7, lines 23-28).

25. Regarding claim 25, Kawahata discloses a display device, comprising:

a. a plurality of source bus lines;

b. an insulating film covering the plurality of source bus lines;

c. a plurality of pixel electrodes; and

d. a first source bus line applying a data signal to one of the plurality of pixel electrodes, and a second source bus line, which does not provide a data signal voltage to said one of the plurality of pixel electrodes, and which is a next source bus line from the first source bus line, provided on an opposite side of said one of the plurality of pixel electrodes from the first source bus line being such that, in a direction parallel to horizontal lines, length x1 (i.e. L2) of a portion of the second source bus line that overlaps said one of the plurality of pixel electrodes is shorter than length of a portion of the first source bus line that overlaps said one of the plurality of pixel electrodes (Kawahata, Figs. 1, 2; col. 4, lines 7-42).

23. Specifically, Kawahata discloses the overlap x1 to be in the range of from 0.5μm to 2μm (Kawahata, col. 4, lines 33-36).

24. Kawahata fails to expressly disclose the overlap L2 to be shorter than (the width of a source bus line - the distance between two pixel electrodes)/2.

25. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the overlap of Kawahata to within the range as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

26. Kawahata still fails to disclose the plurality of source bus lines to each have a continuous S-bend shape provided with concave regions and the plurality of pixel electrodes to be each provided in a concave region at least partially.

27. However, Matsuo discloses a liquid crystal display device wherein a plurality of source bus lines each has a continuous S-bend shape provided with concave regions and a plurality of pixel electrodes are each provided in a concave region at least partially (i.e. "in a delta arrangement," Matsuo, Fig 3; col. 7 line 7-59).

28. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display device of Kawahata to have the delta pixel configuration of Matsuo, in order to achieve a higher picture quality in the display device (Matsuo, col. 7, lines 23-28).

29. Regarding claims 27, 28, 30 and 31, claims 24 and 25 are unpatentable over Kawahata in view Matsuo as discussed above.

30. Kawahata fails to disclose the plurality of source bus lines to each have a continuous S-bend shape provided with concave regions and the plurality of pixel electrodes to be each provided in a concave region at least partially.

31. However, Matsuo discloses a liquid crystal display device wherein a plurality of source bus lines each has a continuous S-bend shape provided with concave regions and a plurality of pixel electrodes are each provided in a concave region at least partially, and further discloses each of the plurality of source bus lines to be used exclusively for pixels of one color, as well as each of the plurality of source bus lines to

supply a data signal to a pixel electrode opposed to a convex region (i.e. "in a delta arrangement," Matsuo, Fig 3; col. 7 line 7-59).

32. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the display device of Kawahata to have the delta pixel configuration of Matsuo, in order to achieve a higher picture quality in the display device (Matsuo, col. 7, lines 23-28).

33. Regarding claim 34, claim 24 is unpatentable over Kawahata in view of Matsuo as discussed above.

34. Kawahata further teaches the area of overlap, S1, between one pixel electrode for one color and the source bus line that applies the data signal to the one color, to be greater than the area of overlap, S2, between a neighboring pixel electrode, or pixel electrode for another color provided on a same horizontal line as the pixel electrode for one color and the source bus line that applies the data signal to the one color (Kawahata, Figs. 1, 2; col. 4, lines 7-42).

35. Though Kawahata fails to expressly disclose adjacent pixels to have different colors, one ordinarily skilled in the art at the time of the invention would understand adjacent pixels in a horizontal direction to have different colors in a color display device (see, e.g., Matsuo or US PGPub. No. 2002/0171086 A1).

36. Regarding claim 38, claim 25 is unpatentable over Kawahata in view of Matsuo as discussed above. Kawahata further discloses the length of the overlap x2 (i.e. L1) to be in the range of from 2.5μm to 4μm (Kawahata, col. 4, lines 33-36).

37. Kawahata fails to expressly disclose the overlap L1 to be longer than (the width of a source bus line - the distance between two pixel electrodes)/2.

38. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the overlap of Kawahata to within the range as claimed, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art, as discussed under claim 25 above.

39. Regarding claims 32, 35, 36 and 39, claims 24, 25, 34 and 38 are unpatentable over Kawahata in view of Matsuo as discussed above.

40. Kawahata further teaches the length of overlap (L2), and thus the area of overlap (S2) and capacitance (Csd2), formed between a pixel electrode and a first source bus line which provides a data signal to said pixel electrode to be substantially constant across the display device in a horizontal direction (Kawahata, Figs. 1, 2; col. 4, lines 7-42).

41. Regarding claims 33, 37 and 40, claims 24, 25 and 34 are unpatentable over Kawahata in view of Matsuo as discussed above. Specifically, Kawahata discloses the

overlap x1 (i.e. L2) to be in the range of from 0.5μm to 2μm (Kawahata, col. 4, lines 33-36).

42. Kawahata fails to expressly disclose the length of overlap (L2), and thus the area of overlap (S2) and capacitance (Csd2), formed between a pixel electrode and a first source bus line which provides a data signal to said pixel electrode to be zero

43. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form the length of overlap, and thus the area of overlap and capacitance, to be zero, in the device of Kawahata in view of Matsuo, since discovering an optimum value of a result effective variable (i.e. degree of overlap) involves only routine skill in the art. *In re Aller,* 105 USPQ 233.

Cited Prior Art

44. US PGPub. No. 2002/0171086 A1 provided by applicant discloses a display device wherein the area of overlap between a pixel electrode (24) and its corresponding source bus line (22) is nonzero (Fig. 6), and wherein the area of overlap between a pixel electrode and its corresponding source bus line is zero (Fig. 13).

Conclusion

45. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

46. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew P. Lawson whose telephone number is 571-272-9795. The examiner can normally be reached on Monday through Thursday from 8:00am to 6:00pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David C. Nelms, can be reached at 571-272-1787. 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).

Matthew P. Lawson,
Examiner

MPL

/Andrew Schechter/

Primary Examiner, Art Unit 2871

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P.O. Box 1450
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OSI PHARMACEUTICALS, INC.
41 PINELAWN ROAD
MELVILLE NY 11747

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OCT 05 2007

OFFICE OF PETITIONS

In re Application of :
Simon A. Hinke et al :
Application No. 11/042,562 : DECISION ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. :
0488/37-CON

This is a decision on the petition under 37 CFR 1.137(b), filed February 27, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed May 9, 2006, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, the application became abandoned on June 10, 2006. A Notice of Abandonment was mailed on January 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of elections, (2) the petition fee of $1,500, and (3) a proper statement of unintentional delay. Accordingly, the reply to the Office action of May 9, 2006 is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This application is being referred to Technology Center AU 1654 for appropriate action in the normal course of business on the reply received February 27, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

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DIW Aug-07

PFIZER INC.
PATENT DEPARTMENT, MS8260-1611
EASTERN POINT ROAD
GROTON CT 06340

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AUG 15 2007

OFFICE OF PETITIONS

In re Application of :
Mantell et al. :
Application Number: 11/042582 : DECISION ON PETITION
Filing Date: 01/24/2005 :
Attorney Docket Number: :
PC10334B :

This is a decision on the petition filed on 12 June, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 6 January, 2007, for failure to timely file a reply to the non-final Office action mailed on 5 October, 2006, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply in accordance with 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 1 June, 2007.

Receipt of the amendment and terminal disclaimer to obviate a double patenting rejection over a "prior" patent filed on 12 June, 2007 is acknowledged.

---

[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application, abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

There is no indication that petitioner herein was ever empowered to prosecute the instant application. If petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney documentation must be mailed. A courtesy copy of this decision will be mailed to petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary.

The application is being referred to Technology Center Art Unit 1623 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

Cc:

PHILIP B. POLSTER, II
PO BOX 1027
ST LOUIS MO 63006

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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ROBERT SAMUEL SMITH
1263 EMORY STREET
SAN JOSE, CA 95126

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OCT 21 2008

OFFICE OF PETITIONS

In re Application of :
Olaf D. Elze, et. al. :
Application No. 11/042,585 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. RSOE9 :

This is a decision on the petition under 37 CFR 1.137(b), filed on April 1, 2008, 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 December 22, 2006. A Notice of Abandonment was mailed on April 16, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $720 for payment of the issue; (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 the Office of Data Management to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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.
11/042,060	01/26/2005	Byeong Moon Jeon	6111-000006/US/DVB	6805

30593 7590 09/11/2009

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
09/11/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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SEP 11 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/042,060 : DECISION ON REQUEST
Filed: January 26, 2005 :
For: **METHOD FOR PREDICTING AN IMAGE** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed July 30, 2009.

Applicants request a third period of suspension for 6 months. The reason for the request is the Board has not yet decided the Appeal in Application No. 10/335,331. As stated in Applicants' previous Petition to Suspend, the claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in Application No. 10/335,331. Furthermore, this feature forms at least one basis for arguing patentability in the Appeal of Application No. 10/335,331. As such, the outcome of the Appeal in Application No. 10/335,331 may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DEC 0 1 2005

R. Neil Sudol
714 Colorado Avenue
Bridgeport CT 06605-1601

In re Application of	:	
Robert Vago	:	
Serial No.: 11/042,607	:	DECISION ON PETITION
Filed: January 25, 2005	:	
For: Method and Device for Subaqueous	:	
Ultrasonic Irradiation of Living Tissue	:	

This is in response to applicants' petition filed September 19, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(c), based on the age of the applicant.

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, IV. Therefore the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

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Alexandria, VA 22313-1450
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JAN 08 2007

OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

In re Application of :
Vago :
Application No. 11/042,607 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No.0069317-000001 :

This is a decision on the petition under 37 CFR 1.137(b), filed December 13, 2006, to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **DISMISSED.**

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Petitioner states that the present nonprovisional application is the subject of an application filed in an eighteen-month publication country. Petitioner indicates that the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

A petition to revive an application abandoned pursuant to
35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply, which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and,
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The present petition lacks item (2). Although the petition indicates the petition fee in the amount of $750.00 was submitted with the petition, a review of the record shows the petition fee has not been located.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA VA 22313-1404

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MAR 19 2007

OFFICE OF PETITIONS

In re Application of :
Robert Vago :
Application No. 11/042,607 : DECISION ON PETITION
Filed: January 25, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 0069317-000001 :

This is a decision on the renewed petition, filed January 25, 2007, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. *See* 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on March 25, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being forwarded to Technology Center Art Unit 3737 for examination in due course.

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WILLIAM O'DRISCOLL – 12-1
TRANE
3600 PAMMEL CREEK ROAD
LA CROSSE WI 54601

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FEB 1 1 2009

OFFICE OF PETITIONS

In re Application of
Joel C. Vanderzee
Application No. 11/042,615
Filed: January 25, 2005
Attorney Docket No. D-2930/WOD

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 22, 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 timely obtained. Accordingly, the application became abandoned on November 23, 2007. A Notice of Abandonment was mailed 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 $1,540.00, and (3) an adequate statement of unintentional delay.

Additionally, 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.

Further, an extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See* In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the $1,050.00, three month extension of time fee submitted on February 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be refunded to petitioner's deposit account in due course.

Telephone inquiries concerning this decision should be directed to Joan Olszewski at (571) 272-7751.

This application is being referred to Technology Center AU 3744 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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JOSEPH A. PUGH
2300 NE BROOKWOOD PARKWAY
HILLSBORO OR 97124

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JAN 25 2008

OFFICE OF PETITIONS

In re Application of	:	
Thomas R. Apel et al	:	
Application No. 11/042,623	:	DECISION GRANTING PETITION
Filed: January 24, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1238-69935-01	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 17, 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 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 2817 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

Karen Creasy
Petitions Examiner
Office of Petitions

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

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OFFICE OF PETITIONS

GANZ LAW, P.C.
P.O. BOX 2200
HILLSBORO, OR 97123

In re Application of :
Adam Duane Calbreath :
Application No. 11/042,628 : DECISION ON PETITION
Filed: January 24, 2005 : TO WITHDRAW
Attorney Docket No. KRT-2.001 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 5, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Bradley M. Ganz on behalf of all attorneys of record who are associated with Customer No. 022874.

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 Irvin Dingle at (571) 272-3210.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: Adam Duane Calbreath
P.O. Box 777
Welches, OR 97131

cc: Karen Thompson
P.O. Box 981
Welches, OR 97067

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
11/042,628	01/24/2005	Adam Duane Calbreath	KRT-2.001

CONFIRMATION NO. 6575

OC000000020048565

OC000000020048565

022874
GANZ LAW, P.C.
P O BOX 2200
HILLSBORO, OR 97123

Date Mailed: 08/16/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/05/2006.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

IRVIN DINGLE
OP (571) 272-3210

FORMER ATTORNEY/AGENT COPY

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JUN 19 2009

OFFICE OF PETITIONS

TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

In re Application of :
MCCARTHY et al. :
Application No. 11/042,637 : DECISION ON PETITION
Filed: 01/25/2005 :
Attorney Docket No. TRW(TE)7326 :

This is a decision on the petition under 37 CFR 1.181, filed February 24, 2009, to withdraw the holding of abandonment in the above-identified application.

On April 17, 2008, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the absence of the timely reply, the application became abandoned on July 18, 2008. On November 13, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that the final Office action was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the final Office action and in the absence of any irregularity, there is a strong presumption that the Office communication was properly mailed to the practitioner at the address of record on that date. This presumption may be overcome by a showing that the final Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> 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).

After reviewing the evidence submitted on petition, the Office concludes that the showing of record is insufficient at this time to warrant withdrawal of the holding of abandonment. In accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the final Office action should include the master docket for the firm. In this instance, the practitioner did not submit a copy of the master docket showing all replies docketed for a date three months from the mail date of the non-received Office communication as documentary proof of non-receipt of the final 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.

In view thereof, the petition to withdraw the holding of abandonment is **dismissed**.

The $400.00 petition fee is unnecessary and will be refunded.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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OFFICE OF PETITIONS

In re Application of :
MCCARTHY et al. :
Application No. 11/042,637 : DECISION ON PETITION
Filed: 01/25/2005 :
Attorney Docket No. TRW(TE)7326 :

This is a decision on the renewed petition under 37 CFR 1.181, filed July 29, 2009, to withdraw the holding of abandonment in the above-identified application.

On April 17, 2008, the Office mailed a final Office action, which set a three-month shortened statutory period to reply. In the absence of the timely reply, the application became abandoned on July 18, 2008. On November 13, 2008, the Office mailed a Notice of Abandonment.

Petitioner asserts that the final Office action was not received at the correspondence address of record.

A review of the written record indicates no irregularity in the mailing of the final Office action and in the absence of any irregularity, there is a strong presumption that the Office communication was properly mailed to the practitioner at the address of record on that date. This presumption may be overcome by a showing that the final Office action was not in fact received.

As stated in Section 711.03(c)(I)(A) of the Manual for Patent Examining Procedure:

> 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).

After reviewing the documents submitted on petition, the Office concludes that the showing of record is sufficient to warrant withdrawal of the holding of abandonment. Petitioner submitted copies of the firm's master docket where the final Office action would have been entered had it been received and docketed. Petitioner explained the firm's procedures for receiving in and docketing communications from the USPTO. Additionally, petitioner provided a statement from the practitioner attesting to the fact that a search of the records revealed that the final Office action was not received at the correspondence address of record. Accordingly, petitioner presented the required showing under 37 CFR 1.181.

The petition under 37 CFR 1.181 is **GRANTED**. The holding of abandonment is hereby withdrawn. No petition fee is required.

Technology Center Art Unit 3616 has been advised of this decision. The matter is being referred to the Technology Center's technical support staff for re-mailing of the final Office action. The three (3) month shortened statutory period for responding to the final Office action will be set to run from the re-mailing date of the Office action.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of :
Karp, et al. :
Application No. 11/042,652 : ON APPLICATION FOR
Filed: January 24, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No. 10589-046-999

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed April 9, 2010. Applicants submit that the patent term adjustment to be indicated on the patent is a minimum of one thousand, three hundred and thirty-six (1,336) days, not one thousand, thirty-eight (1,038) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected

issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee[1].

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

> Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –
>
> (i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

---

[1] For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

It is further noted that a Request for Continued Examination (RCE) was filed in this application on December 22, 2009.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned (571) 272-3222.

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions

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DFW Airport TX 75261-96

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In re Application of	:	
Kenneth F. EDE et al.	:	
Application No. 11/042,661	:	DECISION ON PETITION
Filed: January 25, 2005	:	
Attorney Docket No.	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 7, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before February 29, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 29, 2007. Accordingly, the date of abandonment of this application is March 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 $1440, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Ramesh Krishnamurthy at (571)272 - 4914.

This application is being referred to the Office of Data Management for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

CC: Andrew S. Ehmke
Haynes and Boone LLP
901 Main St Ste 3100
Dallas, TX 75202

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OFFICE OF PETITIONS

Tillman Wright, PLLC
P.O. Box 471581
Charlotte, NC 28247

In re Application of	:	
Craig S. Gravina et al.	:	
Application No. 11/042,672	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 1002.018	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 9, 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 Chad D. Tillman on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

Telephone inquiries concerning this decision should be directed to Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Craig S. Gravina**
321 Main Street
Farmington, CT 06032

cc: **Bright Things Pic**
attn: Dominic Wheatley
Ashley Wood Farm
Hindon Lane
Tisbury
Wiltshire SP3 6PY
UK

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/042,672	01/25/2005	Craig S. Gravina	1002.018

CONFIRMATION NO. 8268

POWER OF ATTORNEY NOTICE

55765
TILLMAN WRIGHT, PLLC
P.O. BOX 471581
CHARLOTTE, NC 28247

OC000000028881466

Date Mailed: 03/17/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/09/2007.

- 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.

/tswilliams/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

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INTELLECTUAL PROPERTY ATTORNEYS, P.A.
835 HANOVER STREET
SUITE 301
MANCHESTER NH 03104

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OFFICE OF PETITIONS

In re Patent No. 7,325,869 :
Issue Date: February 5, 2008 :
Application No. 11/042,673 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. THIELK-039XX :

This is a decision on the petition filed April 24, 2008, 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) 272-3205. 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.

Alesia M. Brown
Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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FULWIDER PATTON LLP
HOWARD HUGHES CENTER
6060 CENTER DRIVE, TENTH FLOOR
LOS ANGELES, CA 90045

Mail Date: 04/26/2010

Applicant	: Earl S. Kluft	: DECISION ON REQUEST FOR
Patent Number	: 7640611	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,678	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: 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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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Timothy E. Benson	: DECISION ON REQUEST FOR
Patent Number	: 7601528	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,690	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **404** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 2 8 2009

OFFICE OF PETITIONS

In re Patent No. 7,553,831
Issued: June 30, 2009
Application No. 11/042,695
Filed: January 25, 2005
Attorney Docket No. 01-1693-CC

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. 1.705(d)" filed June 25, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred seventy-two (472) days to eight hundred thirteen (813) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On June 30, 2009, the above-identified application matured into US Patent No. 7,553,831 with a patent term adjustment of 472 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).

Per the authorization contained in the petition and pursuant to 37 CFR 1.18(e), the Office has charged petitioner's deposit account no. 13-2490 in the amount of $200.00 for the instant petition. No additional fees are required.

Patentees request recalculation of the patent term adjustment based on the decision in With v. Dadas, 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 813 days, which includes an additional 522 days due to exceeding three year pendency.

The 522-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 25, 2005 and the patent having been issued on June 30, 2009, three years and 522 days later. Patentees assert that in addition to this 522 day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 450 days.

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 50 days for applicant delay.

Patentees agree that the total period of Office delay is the sum of the period of Three Years Delay to the issuance of the Patent (522 days) and the period of Examination Delay (450 days) to the extent that these periods of delay are not overlapping. Patentees contend that the periods of examination delay under 37 CFR 1.702(a) and Three Year Delay under 37 CFR 1.702(b) overlap by 109 days.

Accordingly, patentees submit that the total period of Office Delay is 863 days, which is the sum of the period of Three Year Delay (522 days) and the period of Examination Delay (450 days), reduced by the period of overlap (109 days). As such, patentees assert entitlement to a patent term adjustment of 813 days (522 + 450 reduced by 109 overlap -50 for applicant delay).

Thus, as of the issuance of the patent on June 30, 2009, the application was pending three years and 522 days after its filing date. The Office agrees that the action detailed above was not taken within the specified time frame, and thus, a period of adjustment of 450 days was entered. At issue is whether patentees should accrue 522 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 450 days (already adjusted for overlap) for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 522 days overlap. Patentees' calculation of the period of overlap is inconsistent with the Office's interpretation of this provision. 35 U.S.C. 154(b)(2)(A) limits the adjustment of patent term, as follows:

> to the extent that the periods of delay attributable to grounds specified in paragraph (1) overlap, the period of any adjustment granted under this subsection shall not exceed the actual number of days the issuance of the patent was delayed.

Likewise, 35 CFR 1.703(f) provides that:

> To the extent that periods of delay attributable to the grounds specified in § 1.702 overlap, the period of adjustment granted under this section shall not exceed the actual number of days the issuance of the patent was delayed.

As explained in *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 56366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A),* 69 Fed. Reg. 34283 (June 21, 2004).

The current wording of § 1.703(f) was revised in response to the misinterpretation of this provision by a number of Patentees. The rule was slightly revised to more closely track the corresponding language of 35 U.S.C. 154(b)(2)(A). The relevant portion differs only to the extent that the statute refers back to provisions of the statute whereas the rule refers back to sections of the rule. This was not a substantive change to the rule nor did it reflect a change of the Office's interpretation of 35 U.S.C. 154(b)(2)(A). As stated in the *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, the Office has consistently taken the position that if an application is entitled to an adjustment under the three-year pendency provision of 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A).

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding § 1.702 overlap, the period of adjustment

granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3-year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

> Section 4402 imposes limitations on restoration of term. In general, pursuant to [35 U.S.C.] 154(b)(2)(A)-(C), total adjustments granted for restorations under [35 U.S.C. 154](b)(1) are reduced as follows: (1) To the extent that there are multiple grounds for extending the term of a patent that may exist simultaneously (e.g., delay due to a secrecy order under [35 U.S.C.] 181 and administrative delay under [35 U.S.C.] 154(b)(1)(A)), the term should not be extended for each ground of delay but only for the actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[1]

As such, the period for over three-year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application.

In this instance, the relevant period under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay "overlap" under 35 U.S.C. 154(b)(2)(A) is the entire period during which the application was pending before the Office, January 25, 2005, to the date the patent issued on June 30, 2009. (There were no periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)). Prior to the issuance of the patent, 450 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 522 days for Office delay in issuing the patent overlap with the 450 days of examination delay. During that time, the issuance of the patent was delayed by 522 days, not 522 + 450 days. The Office experienced 450 days of examination delay under 37 CFR 1.702(a). Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 522 days of Office delay and the time allowed within the time frames for processing and examination, as of the date the patent issued, the application was pending three years and 522 days. The Office did not delay 522 days and then an additional 450 days. The period of delay of 522 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 450 days attributable to grounds

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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).

specified in § 1.702(a). Entry of both periods is not warranted. Thus, 522 days is determined to be the actual number of days that the issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered 72 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.

Christina Tartera Donnell

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

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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
11/042,702	01/25/2005	1713	1560	427267	1	14	2

CONFIRMATION NO. 5812

CORRECTED FILING RECEIPT

OC000000015666077

30954
LATHROP & GAGE LC
2345 GRAND AVENUE
SUITE 2800
KANSAS CITY, MO 64108

Date Mailed: 04/06/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Jong-Shing Guo, Longmeadow, MA;
Sharon D. Trembley, Chicopee, MA;

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a DIV of 09/886,729 06/21/2001 PAT 6,864,335 which claims benefit of 60/213,851 06/23/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/08/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/042,702

Projected Publication Date: 07/14/2005

Non-Publication Request: No

Early Publication Request: No

Title

Process for forming solid pressure sensitive adhesive polymer microspheres

Preliminary Class

526

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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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
Dennis L. Schultze :
Serial No.: 11/042,706 : PETITION DECISION
Filed: January 25, 2005 :
Attorney Docket No.: 1423-055

This is in response to the petition under 37 CFR § 1.59(b), filed March 29, 2007, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and attachment thereto, submitted to the Patent Office on March 29, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

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JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 11/042,706	: PETITION DECISION
Filed: January 25, 2005	:
Attorney Docket No.: 1423-055	:

This is in response to the petition under 37 CFR § 1.59(b), filed August 22, 2007, to expunge information from the above identified application. This application has now been allowed.

Petitioner requests that the Reply to Request for Information Under 37 CFR 1.105, and all attachments thereto, submitted to the Patent Office on March 29, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entries for those documents have been closed and as such the documents are no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper. Also, as stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. As this application has been allowed, the information is being returned to applicant.

Therefore, applicant's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Manager
Technology Center 1600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/4/08

Paper No.: —

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/042707 Patent No: 7265217 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: OK to Enter All. /S.M.N./ 11 August 2008

/Kathleen Kerr Bragdon/ — **SPE**

1656 — **Art Unit**

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OFFICE OF PETITIONS

SEAGATE TECHNOLOGY LLC
INTELLECTUAL PROPERTY DEPT./ MAIL STOP NRW-097
7801 COMPUTER AVENUE SOUTH
BLOOMINGTON MN 55435

In re Application of	:	
Crimi et al.	:	
Application No. 11/042,736	:	DECISION ON PETITION
Filed: January 25, 2005	:	PURSUANT TO
Attorney Docket No.: 3123-672/20011.13	:	37 C.F.R. § 1.137(B)
Title: SLIDER DEFORMATION CONTROL BY THERMAL-STRUCTURAL COMPENSATORS	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed August 31, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue fee in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 16, 2009, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue fees.[1] Accordingly, the above-identified application became abandoned on June 17, 2009. A Notice of Abandonment was mailed on July 9, 2009.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);

1 See MPEP § 710.02(e)(III).

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition pursuant to 37 C.F.R. § 1.137(b), Petitioner has submitted the proper statement of unintentional delay, the petition fee, and the issue fee. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[2]

Pursuant to this decision, the Office of Patent Publication will be notified of this decision so that the present application can be processed into a patent.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Office of Patent Publication in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Office of Patent Publication where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[3] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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2 See Rule 1.137(d).
3 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

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7801 COMPUTER AVENUE SOUTH
BLOOMINGTON, MN 55435

Mail Date: 04/26/2010

Applicant	: Francis P. Crimi	: DECISION ON REQUEST FOR
Patent Number	: 7646566	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,736	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1136** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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LEWIS, LLP
1600 MARKET STREET
SUITE 3600
PHILADELPHIA PA 19103

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OFFICE OF PETITIONS

In re Patent No. 7,172,720 :
Frank Nissel :
Issue Date: February 6, 2007 : DECISION ON REQUEST
Application No. 11/042,750 : FOR RECONSIDERATION OF
Filed: January 24, 2005 : PATENT TERM ADJUSTMENT
Atty Docket No:1159-CIP-DIV-99:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b)(3)(B)(ii)," filed December 12, 2006 (and resubmitted on February 16, 2007). Applicant requests that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from one hundred one (101) days to one hundred ninety-three (193) days.

The application for patent term adjustment is **DISMISSED**.

Patentees are given **TWO (2) MONTHS** from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On October 3, 2006, 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 101 days. On December 12, 2006, applicants timely[1] submitted an application for patent term adjustment (with required fee), asserting that the correct number of days of PTA at the time of the mailing of the Notice

[1] PALM records indicate that the Issue Fee payment was also received on July 14, 2006.

of Allowance is 193 days. Applicants acknowledge that the first action from the Patent Office was a Restriction Requirement, which was mailed on July 3, 2006. Further, pursuant to 37 CFR §1.702(a)(1), a period of adjustment of 101 days was entered for the Office taking in excess of fourteen months to mail the first Office action under 35 U.S.C. 132. However, applicant argues that the Restriction Requirement was proper. Moreover, applicant contends that the first bona fide action under 37 CFR §1.702(a)(1) from the Office was the Notice of Allowance mailed on October 3, 2006 then the patent term adjustment should be calculated to the October 3, 2006 date, making the patent term adjustment 193 days rather than the 101 days designated in the Notice of Allowance.

37 CFR 1.702(a) provides, in pertinent part, that:

> 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;

Applicant's argument is not persuasive. On April 21, 2005, the Office issued an action as a result of the examination conducted pursuant to 35 U.S.C. 131. The Office thereby satisfied 37 CFR 1.702(a)(1), fourteen months and 101 days after the actual filing date of this application. The entry of a period of adjustment of 101 days is proper.

In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance of one hundred one (101) days is correct.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application matured into a U.S. Patent on February 6, 2007, with a patent term adjustment thereon of 101 days. Accordingly, no further action is necessary.

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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FROST BROWN TODD, LLC
2200 PNC CENTER
201 E. FIFTH STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

Applicant	: Gordon Scott Mindrum	: DECISION ON REQUEST FOR
Patent Number	: 7624344	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,758	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1122** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

In re Application of :
Sharon Gelfand :
Application No. 11/042,760 : DECISION ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. 8969-P :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 31, 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 above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 21, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on June 22, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lack items (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 22, 2007. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Philip Furgang was counsel of record at the time of abandonment, Philip Furgang should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and

with whom this matter was discussed outside of Mr. Furgang. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Philip Furgang and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Any renewed petition may be addressed as follows:

By Mail:
Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand:
U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

To expedite consideration, petitioner may wish to contact the undersigned regarding the filing of the renewed petition under 37 CFR 1.137(b).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Philip Furgang
11 Martine Avenue
White Plains, NY 10606

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FURGANG & ADWAR
2 CROSFIELD AVENUE
WEST NYACK, NY 10994

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NOV 19 2009

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Sharon Gelfand :
Application No. 11/042,760 :
Filed: January 25, 2005 :
Attorney Docket No. 8969-P :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed October 13, 2009, to revive the above-identified application.

The petition is **GRANTED.**

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3677 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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Cozen O'Connor, P.C.
1900 Market Street
Philadelphia, PA 19103-3508

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JUN 0 4 2009

OFFICE OF PETITIONS

In re Application of
Brett P. Monia et al.
Application No. 11/042,768
Filed: January 24, 2005
Attorney Docket No. ISIS0270-100 (HTS-0139US)

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2006.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on June 18, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: McDermott Will & Emery
11682 El Camino Real
Suite 400
San Diego, CA 92130-2047

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BOZICEVIC, FIELD & FRANCIS LLP
1900 UNIVERSITY AVENUE
SUITE 200
EAST PALO ALTO, CA 94303

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MAY 25 2006

OFFICE OF PETITIONS

In re Application of :
Michael S. McGrath :
Application No. 11/042,816 : ON PETITION
Filed: January 24, 2005 :
Attorney Docket No. UCSF-313 :

This is a decision on the petition, filed May 19, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED.**

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on March 17, 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 1616 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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HOWARD & HOWARD ATTORNEYS PLLC
450 West Fourth Street
Royal Oak, MI 48067

Mail Date: 04/21/2010

Applicant	: Steve Livneh	: DECISION ON REQUEST FOR
Patent Number	: 7632270	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,818	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1360** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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JUL 28 2005

In re Application of		:	
Michelle Langlois		:	
Serial No.	11/042,848	:	DECISION ON PETITION
Filed:	March 25, 2005	:	
For:	STORAGE CASE FOR PORTABLE	:	
	COMPUTER GAME CARTRIDGES	:	

This is a decision on the petition to make special filed on June 20, 2005. The petition is submitted pursuant to the practice established in MPEP § 708.02(II) "Infringement." The $130.00 petition fee has been received.

The petition is granted.

A review of the petition shows that petitioners have satisfied all of the requirements of the above-cited MPEP section. Accordingly, the examiner will treat this application as special throughout its prosecution. Prior to the first action on the merits, the examiner will conduct a rigorous search for potentially interfering applications. The interference search will be brought up to date prior to each successive action.

The Supervisory Patent Examiner of Patent Examining Art Unit 3728 will be notified of this decision, and will inform the assigned examiner to take action not inconsistent with this decision.

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

Michelle Langlois
69 Newton Avenue
Warwick, RI 02889

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BRACEWELL & GIULIANI LLP
P.O. BOX 61389
HOUSTON, TX 77208-1389

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SEP 12 2007

OFFICE OF PETITIONS

In re Application of :
Alexis Mendez et al :
Application No. 11/042,850 : ON PETITION
Filed: January 25, 2005 :
Attorney Docket No. 2137JB.045703 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 31, 2006, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 1, 2006.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2883 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

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WEAVER AUSTIN VILLENEUVE & SAMPSON LLP - ALTERA
ATTN: ALTERA
P.O. BOX 70250
OAKLAND, CA 94612-0250

Mail Date: 04/20/2010

Applicant	: Robert Jackson	: DECISION ON REQUEST FOR
Patent Number	: 7613858	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,887	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **791** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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DRW May-06

LEYDIG VOIT & MAYER, LTD
TWO PRUDENTIAL PLAZA, SUITE 4900
180 NORTH STETSON AVENUE
CHICAGO IL 60601-6780

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Theodor Tatarczyk	:	DECISION NOTING PETITION
Application No. 11/042,891	:	UNDER 37 CFR 1.47(b) MOOT
Filed: 25 January, 2005	:	
Atty Docket No. 232485	:	

This is a decision in response to the petition filed on 20 September, 2005 under 37 CFR 1.47(b).

It is noted that on 14 March, 2006, subsequent to the filing of the present petition, a declaration in compliance with 37 CFR 1.63, signed by the sole inventor, was received.

As the inventor has signed the declaration, no petition under 37 CFR 1.47(b) is required. Consequently, further consideration under 37 CFR 1.47(b) is moot; this application does not have any rule 1.47(b) status and no such status should appear in the file. This application need not be returned to this office for any further consideration under 37 CFR 1.47(b).

The petition is **DISMISSED AS MOOT**.

The petition fee will be credited to counsel's deposit account.

The application will be referred to Technology Center 2624 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3231.

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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1900 Market Street
Philadelphia, PA 19103-3508

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of	:	
Sanjay Bhanot et al.	:	
Application No. 11/042,899	:	DECISION ON PETITION
Filed: January 24, 2005	:	TO WITHDRAW
Attorney Docket No. ISIS0277-100 (RTS-0731US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 30, 2006.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Paul K. Legaard and all attorneys/agents of record has been revoked by the assignee of the patent application on June 19, 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: ISIS Pharmaceuticals, Inc.
1896 Rutherford Road
Carlsbad, CA 92008

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,916	01/24/2005	Vikram Bhambri	310299.01	6947

22971 7590 02/24/2009
MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052-6399

EXAMINER	
MUHAMMAD, KHALIF R	
ART UNIT	PAPER NUMBER
3685	

NOTIFICATION DATE	DELIVERY MODE
02/24/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

roks@microsoft.com
ntovar@microsoft.com

UNITED STATES PATENT AND TRADEMARK OFFICE

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Date Mailed: February 24, 2009

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND WA 98052-6399

Applicant: Bhambri et al.
Appl. No.: 11/042,916
Filing Date: January 24, 2005
Title: MULTI-MERCHANT PURCHASING ENVIRONMENT FOR DOWNLOADABLE PRODUCTS
Attorney Docket No.: 310299.01
Pub. No.: US 2006/0167810 A1
Pub. Date: July 27, 2006

This is a decision on the request for republication of patent application publication under 37 CFR 1.221(a), filed on February 22, 2009, 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.** The applicant is directed to the following website for additional instructions on how to submit a Pre-Grant Publication submission via the electronic filing system:

http://www.uspto.gov/ebc/portal/efs/pgpub_quickstart.pdf

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
Program & Management Analyst
Office of Data Management

Adjustment date: 02/24/2009 KKING1
02/23/2009 INTEFSW 00005399 11042916
01 FC:1504 -300.00 OP

Refund Ref:
02/24/2009 0030067015

Credit Card Refund Total: $300.00

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P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

12/4/08

In re Application of:
BARSUN, STEPHAN KARL et al
Serial No.: 11/042,917
Filed: Jan. 24, 2005
Docket: 200314745-1
Title: FAN CLUTCH FOR AN ELECTRONICS COOLING FAN

DECISION ON PETITION

This is a decision on the petition filed on Oct. 13, 2008 by which petitioner requests reconsideration and withdrawal of the restriction requirement of Feb. 7, 2008 and that non-elected claims 1-9 be rejoined and examined on the merits. Claims 11-22 were elected and examined. This petition is being considered pursuant to 37 CFR § 1.144 and 37 CFR § 1.181, and no fee is required.

The petition is **granted.**

A review of the record reveals that a restriction requirement was mailed on Feb. 7, 2008. On Apr. 7, 2008, the applicant elected with traverse Group IV invention and Species of Fig. 5, namely, claims 11-22. The examiner repeated the restriction requirement in the Final Office action of Jul. 14, 2008. On Oct. 13, 2008, the current petition was filed requesting the non-elected claims 1-9 be rejoined because the examiner has not established that the claimed inventions as amended on Nov. 23, 2007 are independent or distinct.

In finding petitioner's points of argument persuasive, the requested relief is granted. The restriction requirement mailed on Feb. 7, 2008 is hereby withdrawn. Claims 1-9 will be rejoined with the elected invention as set forth in claims 11-22. The examiner has been directed to issue an Office action to rejoin and treat the non-elected claims 1-9 on the merits as soon as possible.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3741 for further consideration of non-elected claims 1-9 prior to further appeal proceeding. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

for

Karen M. Young, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/042,919	01/24/2005	2861	1000	10004841-3	9	5	1

CONFIRMATION NO. 6927

CORRECTED FILING RECEIPT

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P. O. Box 272400
Fort Collins, CO 80527-2400

OC000000016047463

Date Mailed: 05/17/2005

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)

Justin Roman, Menlo Park, CA;
Martin G. Rockwell, Sherwood, OR;

Power of Attorney: The patent practitioners associated with Customer Number **022879**.

Domestic Priority data as claimed by applicant

This application is a CON of 10/272,697 10/16/2002 PAT 6,886,901
which is a CON of 09/773,179 01/30/2001 PAT 6,685,295

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/042,919

Projected Publication Date: 06/23/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Measurement of fluid continuity in a fluid carrying member

Preliminary Class

347

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/042,929	01/25/2005	Duncan Wakelin	200206109-2	5725

7590 04/21/2008

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER	
KORZUCH, WILLIAM R	

ART UNIT	PAPER NUMBER
2627	

NOTIFICATION DATE	DELIVERY MODE
04/21/2008	ELECTRONIC

DECISION GRANTING PETITION UNDER 37 CFR 1.138(d)

The declaration of express abandonment is recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is granted.

The express abandonment is recognized. Any previously paid search fee and excess claims fee are hereby refunded.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management

Adjustment date: 04/23/2008 DTERRY
04/22/2008 RMEBRAHT 00000024 082025 11042929
04 FC:1201 300.00 CR
200.00 CR

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FISH & RICHARDSON P.C.
P.O. Box 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 04/20/2010

Applicant	: Lubomir D. Bourdev	: DECISION ON REQUEST FOR
Patent Number	: 7634142	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/24/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1111** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 04/20/2010

Applicant	: Mark Hettinger	: DECISION ON REQUEST FOR
Patent Number	: 7666090	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: 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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K&L Gates LLP
P.O. Box 1135
CHICAGO, IL 60690

Mail Date: 05/17/2010

Applicant : Mark Hettinger
Patent Number : 7666090
Issue Date : 02/23/2010
Application No: 11/042,947
Filed : 01/25/2005

: 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 **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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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/042,958	01/24/2005	2124	1180	PA2882US	10	21	3

CONFIRMATION NO. 3824

22830
CARR & FERRELL LLP
2200 GENG ROAD
PALO ALTO, CA 94303

UPDATED FILING RECEIPT

OC000000015891657

Date Mailed: 04/28/2005

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)

David Yung, Concord, CA;

Assignment For Published Patent Application

PeopleSoft, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **22830**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/03/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/042,958

Projected Publication Date: Request for Non-Publication Acknowledged

Non-Publication Request: Yes

Early Publication Request: No

Title

Method and apparatus for user function variable processing system and prompt

Preliminary Class

708

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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PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS, MI 49501

Mail Date: 04/26/2010

Applicant	: Thomas M. Kurth	: DECISION ON REQUEST FOR
Patent Number	: 7595094	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/042,980	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1154** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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APR 26 2010

OFFICE OF PETITIONS

PRICE HENEVELD COOPER DEWITT & LITTON, LLP
695 KENMOOR, S.E.
P O BOX 2567
GRAND RAPIDS MI 49501

In re Application of	:	
Kurth et al.	:	
Application No. 11/042,980	:	
In re Patent No. 7,595,094	:	DECISION ON PETITION
Filing Date: January 25, 2005	:	PURSUANT TO 37 C.F.R.
Issue Date: September 29, 2009	:	§ 3.81(B)
Attorney Docket Number: URE002 P310B	:	
Title: VEGETABLE OIL-BASED COATING AND METHOD FOR APPLICATION	:	

This is a decision on the "Petition to Correct Assignee Under 37 C.F.R. § 3.81(b)," filed September 1, 2009, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b). This petition was supplemented via the submission of a certificate of correction on April 20, 2010.

The petition is **GRANTED to the extent indicated herein.**

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. Petitioner has submitted a "Certificate of Correction" for this purpose, which indicates that the address of the sole assignee should be changed from "Dover, Illinois" to "Volga, SD."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

> (b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11

> before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has not set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent. However, it is noted that Office records indicate that an assignment was received in the Office on February 1, 2006, which is prior to the issuance of this patent, and as such, this requirement of 37 C.F.R. § 3.81(b) is waived, *sua sponte*.

Payment of the required $130 processing fee and the required $100 certificate of correction fee is acknowledged.

It is noted that Petitioner has also requested twenty corrections of text within the abstract, the specification, and the claims. At the present time, the Office has made no determination as to these requests. The mailing of this decision should not be construed as an indication that any of these requested corrections have been approved.

The Certificates of Correction Branch will be notified of this decision. The Certificates of Correction Branch will:

- review Petitioner's requests pertaining to the corrections within the text of the patent, and;
- issue a Certificate of Correction in due course. The requested correction to the address of the Assignee will appear thereon.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 305-8309.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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ROPES & GRAY LLP
PATENT DOCKETING 39/361
1211 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8704

Mail Date: 04/21/2010

Applicant	: Michael Mecklenburg	: DECISION ON REQUEST FOR
Patent Number	: 7662560	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/042,984	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/25/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **721** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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XPERTUNIVERSE, INC.
253 WEST 35TH STREET, SIXTH FLOOR
NEW YORK NY 10001

COPY MAILED

NOV 10 2008

In re Application of :
Nevin, et al. :
Application No. 11/043,014 : DECISION ON PETITION
Filed: No. January 24, 2005 :
Attorney Docket No. 03770/0202089-US0 :
For: SEMANTIC TO NON-SEMANTIC ROUTING FOR LOCATING A LIVE EXPERT

This is a decision on the petition under the unavoidable standard of 37 CFR 1.137(a), filed October 7, 2008 (certificate of mailing date October 3, 2008), to revive the above-identified application.

The petition is **DISMISSED.**

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

This application became abandoned for failure to timely submit the issue fee and the publication fee in response to the Notice of Allowance and Fee(s) Due, mailed May 13, 2008, which set a non-extendable three month period for reply. Applicants attempted to pay the fees on August 11, 2008. However, the check was not honored by petitioners' bank. The application became abandoned on August 14, 2008. A Notice of Abandonment was mailed on September 17, 2008.

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 (1).

On October 2, 2008, a number of fees increased. Any fee amount paid on or after October 2, 2008 must be paid at the new rate. One of those increased fees was the utility issue fee. The current small entity utility issue fee is $755.00. The publication fee remains the same at $300.00. Petitioners paid $1,020.00. $50.00 was retained as a returned check fee. $755.00 was applied for the issue fee. This left a $215.00 balance, which was not enough to cover the $300.00 publication fee.

While the showing of unavoidable delay is acceptable, the reply is still lacking. The petition under 37 CFR 1.137(a) is dismissed.

Petitioners are encouraged to submit $85.00 and a reconsideration petition under 37 CFR 1.137(a) within two months of the mail date of this decision.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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

XPERTUNIVERSE, INC.
253 WEST 35TH STREET, SIXTH FLOOR
NEW YORK NY 10001

MAILED

JAN 30 2009

OFFICE OF PETITIONS

In re Application of
Nevin, et al.
Application No. 11/043,014
Filed: No. January 24, 2005
Attorney Docket No. 03770/0202089-US0
For: SEMANTIC TO NON-SEMANTIC ROUTING FOR LOCATING A LIVE EXPERT

: DECISION ON PETITION

This is a decision on the renewed petition under the unavoidable standard of 37 CFR 1.137(a), filed January 7, 2009, to revive the above-identified application.

This application became abandoned for failure to timely submit the issue fee and the publication fee in response to the Notice of Allowance and Fee(s) Due, mailed May 13, 2008, which set a non-extendable three month period for reply. Applicants attempted to pay the fees on August 11, 2008. However, the check was not honored by petitioners' bank. The application became abandoned on August 14, 2008. A Notice of Abandonment was mailed on September 17, 2008.

Petitioners have submitted the issue and publication fee, in response to the May 13, 2008 Notice of Allowance and Fee(s) Due, an acceptable showing of the unavoidable nature of the delay in responding to the May 13, 2008 Notice of Allowance and Fee(s) Due, and the petition fee.

The petition under 37 CFR 1.137(a) is **granted.**

After the mailing of this decision, the application will be returned to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DOCKET CLERK
P.O. DRAWER 800889
DALLAS TX 75380

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Wybenga, Sturm and Tharp : DECISION ACCORDING STATUS
Application No. 11/043,021 : UNDER 37 CFR 1.47(a)
Filed: January 25, 2005 :
Title: APPARATUS AND METHOD FOR :
ARCHITECTURALLY REDUNDANT ETHERNET :

This is in response to the petition under 37 CFR 1.47(a), filed on May 12, 2005 (certificate of mailing dated Monday May 9, 2005).

The petition is granted.

Petitioner has shown that Jack C. Wybenga and Steven Eugene Tharp, the non-signing inventors, have refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of John T. Mockler establishes that petitioner mailed the application papers, including the specification, claims and drawings by certified mail, return receipt requested to the last known addresses of the non-signing inventors; however, the inventors have not responded.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 2661 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Steven Eugene Tharp
405 Rivercove Drive
Garland TX 75044

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of :
Wybenga, Sturm and Tharp :
Application No. 11/043,021 :
Filed: January 25, 2005 :
Title: APPARATUS AND METHOD FOR :
ARCHITECTURALLY REDUNDANT ETHERNET :

LETTER

Dear Mr. Tharp:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina Tartera Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Docket Clerk
P.O. Drawer 800889
Dallas, TX 75380

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUL 23 2010

OFFICE OF PETITIONS

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DALLAS TX 75380

In re Application of :
WYBENGA et al. :
Application No. 11/043,021 : ON APPLICATION FOR
Filed: 01/25/2005 : PATENT TERM ADJUSTMENT
Attorney Docket No. 2003.11.027.BN0:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION UNDER 37 C.F.R. § 1.705(b)" filed May 24, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least 1034 days, not 625 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR

1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.[1]

The Office acknowledges the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

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[1]. For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

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FEB 14 2008

OFFICE OF PETITIONS

In re Application of	:	
Takashi Sakata et al.	:	
Application No. 11/043,039	:	DECISION GRANTING PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1046.1348	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 12, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2613 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

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.*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 09/21/09

TO SPE OF : ART UNIT 3744

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/043,045 Patent No.: 7,240,510 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9D50-D
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9846

Should COCIN dated 9-15-2009 be approved? Fee was been paid for correction of error

Antonio Johnson
Certificates of Correction Branch
703-756-1584

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: _____

FRANTZ JULES
SUPERVISORY PATENT EXAMINER
10/8/09

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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WWW.USPTO.GOV

Paper No.

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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JUN 0 8 2009

OFFICE OF PETITIONS

In re Application of	:	
Woo-Kang Jin et al.	:	
Application No. 11/043,075	:	DECISION ON PETITION
Filed: January 27, 2005	:	PURSUANT TO
Attorney Docket No.: 9862-000047/US	:	37 C.F.R. § 1.181(A)
Title: EQUALIZER, GROUP DELAY COMPENSATION CIRCUIT FOR THE EQUALIZER AND METHOD OF COMPENSATING FOR GROUP DELAY IN THE EQUALIZER	:	

This is a decision on the petition filed April 20, 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 amendment is acknowledged.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 21, 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 July 22, 2008. A notice of abandonment was mailed on January 23, 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 notice of April 21, 2008 was not received at the correspondence address of record,[1] and that a search of the file jacket and the contents of the file indicates that the notice was not received.[2]

1 Petition, page 2.
2 Id. at 1.

Moreover, Petitioner has provided a copy of the records used by the practitioner where the allegedly non-received notice would have been entered had it been received (a copy of the file jacket and a copy of the master docket which covers the relevant time frame).

Petitioner's assertion of non-receipt has not been adequately supported, as will be now pointed out.

First, Petitioner has not provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO. Reference has been made to the usage of a "manual docketing system"[3] which appears to be an electronic docketing system, but it has not been explained how this system operates.

Second, Petitioner has not established that the docketing system is sufficiently reliable.

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]

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.

---

3 Id. at 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.[8] All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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).

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.

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

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SEP 0 1 2009

OFFICE OF PETITIONS

In re Application of	:	
Woo-Kang Jin et al.	:	
Application No. 11/043,075	:	DECISION ON RENEWED PETITION
Filed: January 27, 2005	:	PURSUANT TO
Attorney Docket No.: 9862-000047/US	:	37 C.F.R. § 1.181(A)
Title: EQUALIZER, GROUP DELAY COMPENSATION CIRCUIT FOR THE EQUALIZER AND METHOD OF COMPENSATING FOR GROUP DELAY IN THE EQUALIZER	:	

This is a decision on the renewed petition filed July 30, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This renewed petition pursuant to 37 C.F.R. § 1.181(a) is **DISMISSED**.

BACKGROUND

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed April 21, 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 July 22, 2008. A notice of abandonment was mailed on January 23, 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).

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on April 20, 2009, and was dismissed via the mailing of a decision on June 8, 2009, for failure to provide a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO, and for failure to establish that the docketing system is sufficiently reliable.

With this renewed petition, Petitioner has provided a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO.

Petitioner has established that Applicants utilize an electronic docketing system, and Applicants' Docketing Department enters incoming correspondence into said electronic docketing system, which then generates "deadlines, extended deadlines, and reminder "call-ups."[1] Petitioner has further explained that for a non-final Office action, the electronic docketing system generates a three month due date with a call-up one month before the deadline, along with an additional call-up at "each of the three extended deadlines."[2]

Copies of "docketing system printouts" have been provided, and as such, it appears that the electronic docketing system generates printed reports. **Is this the case? If so, how often are these reports generated, and are they distributed to, and reviewed by the responsible attorney?**

Moreover, **the record is silent as to whether these periodic reminders are distributed to, and reviewed by the responsible attorney.**

Without this information, the Office cannot determine whether the docketing system is sufficiently reliable. It follows that the assertion that the non-final Office action of April 21, 2008 was not received has not been adequately supported.

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 "Second 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 second 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]

---

1 Renewed petition, page 2.
2 Id.
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.

Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web.[6]
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.[7] All other inquiries concerning examination procedures should be directed to the Technology Center.

Paul Shanoski
Senior Attorney
Office of Petitions

6 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

UNITED STATES PATENT AND TRADEMARK OFFICE

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UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

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NOV 0 2 2009

OFFICE OF PETITIONS

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of :
Woo-Kang Jin et al. :
Application No. 11/043,075 : DECISION ON SECOND
Filed: January 27, 2005 : RENEWED PETITION PURSUANT TO
Attorney Docket No.: 9862- : 37 C.F.R. § 1.181(A)
000047/US :
Title: EQUALIZER, GROUP DELAY :
COMPENSATION CIRCUIT FOR THE :
EQUALIZER AND METHOD OF :
COMPENSATING FOR GROUP DELAY IN :
THE EQUALIZER :

This is a decision on the second renewed petition filed September 29, 2009, pursuant to 37 C.F.R. § 1.181(a), requesting that the holding of abandonment in the above-identified application be withdrawn.

This second renewed 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 April 21, 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 July 22, 2008. A notice of abandonment was mailed on January 23, 2009.

PROCEDURAL HISTORY AND ANALYSIS

An original petition pursuant to 37 C.F.R. § 1.181(a) was filed on April 20, 2009, and was dismissed via the mailing of a decision on June 8, 2009, for failure to provide a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO, and for failure to establish that the docketing system is sufficiently reliable.

A renewed petition pursuant to 37 C.F.R. § 1.181(a) was filed July 30, 2009, along with a statement describing the system used for recording an Office communication received at the correspondence address of record with the USPTO. With the renewed petition, Petitioner established that Applicants utilize an electronic docketing system, and Applicants' Docketing Department enters incoming correspondence into said electronic docketing system, which then generates "deadlines, extended deadlines, and reminder "call-ups."[1] Petitioner further explained that for a non-final Office action, the electronic docketing system generates a three month due date with a call-up one month before the deadline, along with an additional call-up at "each of the three extended deadlines."[2]

The renewed petition was dismissed via the mailing of a decision on September 1, 2009.

With this second renewed petition, it has been established that the electronic docketing system generates printed reports on a daily basis[3] which are distributed to the entire firm,[4] and these printed reports serve as periodic reminders.[5] Moreover, it has been established that the responsible attorney(s) review the docket on a daily basis.[6]

CONCLUSION

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 April 21, 2008 was not received.

---

1 Renewed petition, page 2.
2 Id.
3 Second renewed petition, page 2.
4 Id.
5 Id. at 2.
6 Id. at 3.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on April 20, 2009 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the 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.[7] 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

---

7 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any of Petitioner's further action(s).

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.
11/043,092	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVB	9699

30593 7590 06/10/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
06/10/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MAIL

JUN 10 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON :
Application No. 11/043,092 : DECISION ON REQUEST
Filed: January 27, 2005 :
For: **METHOD OF PREDICTING AN IMAGE BLOCK** :

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed February 3, 2010.

Applicants request a second period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker

Wanda L. Walker, Director
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
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LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC MD 20854

COPY MAILED

JAN 16 2007

OFFICE OF PETITIONS

In re Application of :
Mina Houtan :
Application No. 11/043,100 : DECISION ON PETITION
Filed: January 27, 2005 : TO WITHDRAW
Attorney Docket No. 21264-201 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed October 16, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request cannot be approved because no reasons for withdrawal have been provided. The Office cannot, at this time, determine whether practitioner's request is one of the mandatory or permissive reasons enumerated in 37 CFR 10.40. Any subsequent requests must include reasons for withdrawal. Please note that there is a space provided for on PTO/SB/83 (Request to Withdraw as Attorney or Agent) to supply practitioner's reasons.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There are no pending office actions at the present time.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MINA HOUTAN
300 CENTRAL AVENUE
EGG HARBOR TOWNSHIP, NJ 08234

UNITED STATES PATENT AND TRADEMARK OFFICE

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LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC, MD 20854

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JUL 16 2007

OFFICE OF PETITIONS

In re Application of :
Mina Houtan :
Application No. 11/043,100 : DECISION ON PETITION
Filed: January 27, 2005 : TO WITHDRAW
Attorney Docket No. 21264-201 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed February 8, 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 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.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: MINA HOUTAN
300 CENTRAL AVENUE
EGG HARBOR TOWNSHIP, NJ 08234

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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LAW OFFICES OF KHALILIAN SIRA, LLC
9100 PERSIMMON TREE ROAD
POTOMAC, MD 20854

COPY MAILED

JAN 23 2008

OFFICE OF PETITIONS

In re Application of :
Mina Houtan :
Application No. 11/043,100 : DECISION ON PETITION
Filed: January 27, 2005 : TO WITHDRAW
Attorney Docket No. 21264-201 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 11, 2007 and October 11, 2007.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "client is no longer interested to pursue this application for the lack of funds", do not meet any the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

There is an outstanding Office action mailed October 5, 2007 that requires a reply 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: MINA HOUTAN
300 CENTRAL AVENUE
EGG HARBOR TOWNSHIP, NJ 08234

OIPE JAP68
SEP 15 2005
PATENT & TRADEMARK OFFICE

IFW

Docket No. MOR-001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)
)
Leonhardt et al.)
)
Serial No. 11/043,121) Group Art Unit: 1761
)
Filed: 1/26/05) Examiner: Unassigned
)

For: WINE AGING METHOD AND SYSTEM

Assistant Commissioner of Patents
Washington, D.C. 20231

Sir:

PETITION TO MAKE SPECIAL

Applicant hereby petitions under 37 CFR § 1.102 and §§ 708.01 and 708.02 of the M.P.E.P. to make the above application special on the basis that both applicants are over sixty-five (65) years of age.

As set forth in the attached Declarations, applicant Charles G. Leonhardt presently is eighty-one (81) years old and co-applicant James A. Morabito is eighty-five (85) years old. In view of the applicants' ages and the policy set forth in the pertinent regulations and provisions, it is believed that this petition should be automatically granted.

Applicant understands that no fee is required for this Petition.

Respectfully submitted,

Howard N. Flaxman
Registration No. 34,595

WELSH & FLAXMAN LLC
2000 Duke Street, Suite 100
Alexandria, VA 22314
(703) 920-1122

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
SEP 26 2005

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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NOV 28 2005

WENDEROTH, LIND & PONACK, L.L.P.
2033 K STREET N. W.
SUITE 800
WASHINGTON DC 20006-1021

In re Application of	:	
Nagatoshi Kagami et al	:	
Serial No.: 11/043,150	:	DECISION ON PETITION
Filed: January 27, 2005	:	
For: WIG	:	

This is in response to the petition applicant filed on April 8, 2005 to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicant has satisfied the provisions set forth in M.P.E.P. 708.02, VIII, thus the petition is **GRANTED**.

The application will be forwarded to the examiner for action on the merits commensurate with this decision.

Should there be any questions with regard to this letter please contact Frederick R. Schmidt by letter addressed to the Director, Technology Center 3700, P.O. Box 1450 Alexandria, VA 22313-1450, or by telephone at (571) 272-2975 or by facsimile transmission at (571) 273-8300.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES
PATENT AND
TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
Alexandria, VA. 22313-1450
WWW.USPTO.GOV

WENDEROTH, LIND & PONACK, L.L.P.
2033 K St., N.W., Suite 800
Washington, D.C. 20006-1021

Date: February 21, 2008
Application No. 11/043,176
Filed: January 27, 2005
Subject: **2-OXO-1-PYRROLIDINE DERIVATIVES, PROCESSES FOR PREPARING THEM AND THEIR USES**

ON PETITION
37 CFR 1.48(b)

Receipt is acknowledged of the petition filed December 13, 2007 under 37 CFR 1.48(b) for correction of inventorship. The petition has been **GRANTED**.

In view of the papers filed, it has been found that during the prosecution of the instant application a restriction was required and therefore, not all of the inventors contributed to the invention as now claimed. Accordingly, this application has been changed by the **deletion of the inventor Alain Matagne.** The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of the file jacket and PTO PALM data to reflect the inventorship as corrected.

JOSEPH K. MCKANE
United States Patent and Trademark Office
Technology Center 1600
SPE, ART UNIT 1626
Remsen 5A05
571-272-0699

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/043,182	01/27/2005	Byeong Moon Jeon	6111-000002/US/DVC	8049

30593 7590 06/10/2010

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON, VA 20195

EXAMINER	
HALLENBECK-HUBER, JEREMIAH CHARLES	

ART UNIT	PAPER NUMBER
2621	

MAIL DATE	DELIVERY MODE
06/10/2010	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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Commissioner for Patents
United States Patent and Trademark Office
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MAIL

JUN 14 2010

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

In re Application of
JEON, BYEONG MOON
Application No. 11/043,182
Filed: January 27, 2005
For: **METHOD OF DETERMINING MOTION VECTORS FOR A BI-PREDICTIVE IMAGE BLOCK**

DECISION ON REQUEST

This is a decision on the request for continued suspension of action under 37 C.F.R. § 1.103(a) filed April 09, 2010.

Applicants request a second period of suspension for 6 months. The reason for the request is the Applicants have not received a decision in the appeal for Application No. 10/337,611. As stated in Applicants' previous Petition to Suspend, The claims in the above-identified application include at least one feature commensurate in scope with at least one feature claimed in the patent application. Furthermore, this feature forms at least one basis for arguing patentability in the future Appeal of the parent application. As such, the outcome of the Appeal in the parent application may be dispositive of patentability in the subject application.

37 C.F.R. § 1.103 Suspension of action by the Office, states in part:

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. 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(h), unless such cause is the fault of the Office. [emphasis added]

709 [R-2] Suspension of Action, states in part:...

Suspension of action under 37 CFR 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR 1.704(c)(1).

Pursuant to applicant's request, suspension on this application is **GRANTED**. Ex parte prosecution is SUSPENDED FOR A PERIOD OF 6 MONTHS. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Wanda L. Walker, Director
Technology Center 2600
Communications

11043189

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-6-06 Paper No.: _____

TO SPE OF : ART UNIT 3617

SUBJECT : Request for Certificate of Correction on Patent No.: 7108331

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

ROCHAUN JOHNSON
Certificates of Correction Branch
Tel. No. 703-308-9390 EXT 119

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

3617 Art Unit

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov

WHIRLPOOL PATENTS COMPANY - MD 0750
500 RENAISSANCE DRIVE - SUITE 102
ST. JOSEPH MI 49085

COPY MAILED
DEC 0 8 2008

In re Application of :
Forrest F. Wing :
Application No. 11/043190 :
Filing or 371(c) Date: 01/27/2005 :
Attorney Docket Number: :
WIN007-2094 : ON PETITION

This is a decision on the "Request for Reinstatement," filed November 10, 2008. The Request is properly treated as a Petition to Withdraw Holding of Abandonment Under 37 C.F.R. § 1.181(a).

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 March 27, 2008. 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 June 28, 2008. A Notice of Abandonment was mailed October 16, 2008.

Applicant's Assertion

Applicant files the present petition and asserts that a timely reply to the Office action was filed June 18, 2008. No copy of the reply has been filed. Applicant notes that the Office's Patent Application Information and Retrieval ("PAIR") System contains a copy of the reply.

Review of Office Records

A review of Office records reveal that the Office received the response filed on June 18, 2008.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

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 to this, the MPEP 601.03 provides:

> Where a correspondence address has been established on filing of the application or changed pursuant to 37 CFR 1.33(a)(1) (prior to the filing of an executed oath or declaration under 37 CFR 1.63 by any of the inventors), that correspondence address remains in effect upon filing of an executed oath or declaration under 37 CFR 1.63 and can only be subsequently changed pursuant to 37 CFR 1.33(a)(2). Under 37 CFR 1.33(a)(2), where an executed oath or declaration under 37 CFR 1.63 has been filed by any of the inventors, the correspondence address may be changed by (A) a patent practitioner of record, (B) an assignee as provided for under 37 CFR 3.71(b), or (C) all of the applicants (37 CFR 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 37 CFR 3.71. See 37 CFR1.33(a)(2).

The application will be referred to Technology Center Art Unit 3677 for processing of the amendment and remarks, and for continued examination in due course.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

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MORRISTOWN NJ 07962-2245

10/2/09

In re Application of:
SHEORAN, YOGENDRA Y. et al.
Serial No. 11/043,228
Filed: Jan. 25, 2005
Docket: H0008740--3136
Title: QUIET CHEVRON/TAB EXHAUST EDUCTOR SYSTEM

DECISION ON PETITION
UNDER 37 CFR § 1.181

This is a decision on the petition filed on July 29, 2009 under 37 CFR 1.181 requesting withdrawal of drawing objection mailed April 17, 2009. In the petition, petitioner requests entry of the amendment after final filed on May 26, 2009 in order to remedy the noted deficiencies in the final rejection of April 17, 2009. The petition is being considered pursuant to 37 CFR 1.181, and no fee is required.

The petition is granted.

The examiner was requested to enter the amendment after final filed on May 26, 2009 for appeal purposes because the amendment neither raised new issues nor added new matter. Additionally, the applicant proposed to cancel claim 12 to overcome a Rule 83 drawing objection in order to reduce the issues of appeal. A review of the final rejection of April 17, 2009 also shows that the examiner properly objected claims 14 and 15 because they were depended from a cancelled claim. In the amendment after final of May 26, 2009, in addition to the applicant's correction of the dependency of claims 14 and 15, the applicant also made a correction of antecedent problem. The changes to claims 14 and 15 also would reduce the appealable issues. In the advisory action of June 4, 2009, the examiner refused to enter the amendment after final filed on May 26, 2009 because the amendment required further consideration and search.

A careful review of the amendment after final of May 26, 2009 does confirm what the applicant argued. In the amendment afetr final under 37 CFR 1.116, the cancellation of claim 12 and amendment to claims 14 and 15 do reduce the appealable issues. Therefore, there is no reason not to enter the amendment after final for appeal purposes. In finding petitioner's points of argument persuasive, the requested relief is granted. The amendment after final filed on May 26,

2009 is now entered. Since claim 12 has been cancelled by the amendment after final, the Rule 83 drawing objection is hereby withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3741 for preparation of an Examiner's Answer in response to the applicant's Appeal Brief filed on July 31, 2009 consistent with this decision. Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision, 37 CFR 1.181(f). No extension of time under 37 CFR 1.136(a) is permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.181". Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED.

Donald T. Hajec, Director
Technology Center 3700