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Pulse-Link, Inc.
1969 Kellogg Avenue
Carlsbad CA 92008

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JUN 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Santhoff et al.	:	
Application No. 11/043,230	:	LETTER
Filed: January 25, 2005	:	
Attorney Docket No. 00207	:	

This is in response to the petition under 37 CFR 1.47(a), filed May 11, 2005.

In accordance with 37 CFR 1.63(d)(3), petitioner submitted a copy of the executed declaration filed in Application No. 09/804,110, filed on March 12, 2001, of which the present filing is a divisional application. Additionally, petitioner submitted a copy of the decision, mailed on March 21, 2002, granting a petition under 37 CFR 1.47(a) in the prior application. As § 1.47(a) status was granted in the prior application, this application is hereby accorded § 1.47(a) status.

The present petition is **dismissed** as involving a moot issue because a petition is unnecessary to accord § 1.47(a) status in this application. Accordingly, the $65.00 surcharge for the late filing of a declaration and the $200.00 petition fee are unnecessary and will be credited to Deposit Account No. 50-3143.

As provided in 37 CFR 1.47(c), the Office is dispensing with the notice provision in this divisional application because the Office provided notice to the non-signing inventors regarding the § 1.47(a) status in the prior application.

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Leggett & Kram
1901 South I Street
Tacoma WA 98405

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AUG 21 2006

OFFICE OF PETITIONS

In re Application of	:	
Moody, et al.	:	
Application No. 11/043,236	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 28,733	:	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 7, 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, "retirement from Patent prosecution", 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 April Wise at 571-272-1642.

Amelia Au
Petitions Examiner
Office of Petitions

cc: Kenneth W. Moody
2136 7th Avenue SW
Puyallup, WA 98371

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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	:
Rosenbauer, Michael	:
Application No. 11/043,237	: DECISION GRANTING PETITION
Filed: January 26, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00936WOUS	:

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/EP2003/009245, filed on August 20, 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 1746 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

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,237	01/26/2005	1746	1000	2002P00936WOUS		12	2

CONFIRMATION NO. 7100
CORRECTED FILING RECEIPT
OC000000020156199
OC000000020156199

000046726
JOHN T. WINBURN
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 08/23/2006

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

Applicant(s)

Michael Rosenbauer, Reimlingen, 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/EP03/09245 08/20/2003

Foreign Applications

GERMANY 10238304.9 08/21/2002
If Required, Foreign Filing License Granted: 03/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,237

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for adapting a rinsing program in a dishwasher machine, and corresponding dishwasher machine

Preliminary Class

134

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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Paper No.

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BLOOMFIELD HILLS, MI 48304-0610

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APR 13 2006
OFFICE OF PETITIONS

In re Application of	:	
Snyder et al.	:	DECISION REFUSING STATUS
Application No. 11/043,248	:	UNDER 37 CFR 1.47(a)
Filed: January 26, 2005	:	
Atty Docket No. 65703-0123	:	

This is a decision on the PETITION PURSUANT TO 37 CFR 1.47 INVOLVING THE REFUSAL OF CO-INVENTOR TO EXECUTE THE POWER OF ATTORNEY filed September 7, 2005.

The petition is **DISMISSED**.

Rule 47 applicants are 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 C.F.R. §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 C.F.R. § 1.136(a).

The above-identified application was filed on January 26, 2005, without an executed oath or declaration. Glenn Snyder, Keith Boyle and Willard Crotty were identified as joint inventors. Accordingly, on March 7, 2005, the Office mailed a NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION, requiring an executed oath or declaration and the surcharge for its late filing. This Notice set a two-month period for response with extensions of time obtainable under § 1.136(a).

In response, applicants filed the petition under §1.47(a)(and petition fee), and a petition for extension of time for response within the third month. Pursuant to the accompanying authorization, the fee for extension of time for response within the fourth month was charged to accept this response as timely filed. Rule 47 applicants assert that status under §1.47(a) is proper because inventor Snyder refuses to execute the declaration. In support thereof, applicants submit a declaration of facts of joint inventor Willard Crotty, stating that on September 2, 2005, he spoke with inventor Snyder and inventor Snyder refused to sign the declaration. Rule 47 applicant requests acceptance of a declaration executed by inventor Crotty on behalf of himself and on behalf of inventor Snyder.

A grantable petition under 37 C.F.R. § 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or found, after 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; and (4) a statement of the last known address of the non-signing inventor. The instant petition does not satisfy requirements (1) and (2).

As to requirement (1), rule 47 applicant has not submitted adequate proof of refusal. The statement of facts submitted does not show the inventor was presented with all of the application papers. Before a refusal can be alleged, applicants must demonstrate 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 non-signing inventor. 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. See MPEP 409.03(d). Evidence making clear that a copy of all of the application papers were sent to the last known address of the non-signing inventor, or, if the non-signing inventor is represented by counsel, to the address of the non-signing inventor's attorney is required. Documentary evidence supporting co-inventor Crotty's statement, such as copies of cover letters transmitting the application

papers and certified mail return receipts, should be made part of the record.

If prior to the oral refusal on September 2, 2005 inventor Snyder was not presented with all of the application papers, then rule 47 applicants must now present those papers. In such case, an additional showing of direct refusal or refusal by conduct must also be shown.

As to requirement (2), rule 47 applicant indicates that only one of the available joint inventors is signing on behalf of the non-signing inventor. This is not acceptable. 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

(Emphasis added).

On renewed petition, applicants must correct the following deficiencies:

1. Provide adequate proof of presentation of all of the application papers to inventor Snyder and if presentation is after September 2, 2005, of his subsequent refusal, consistent with the guidance set forth in MPEP 409.03(d).

2. Supply an oath or declaration properly executed by all available joint inventors on behalf of themselves and on behalf of non-signing inventor Snyder (Rule 47 applicants are reminded

that an oath or declaration with non-initialized/non-dated changes is unacceptable).

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

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

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

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

Telephone inquiries concerning this matter 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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BLOOMFIELD HILLS, MI 48304-0610

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OFFICE OF PETITIONS

In re Application of	:	
Glenn Snyder, Keith Boyle	:	DECISION ACCORDING STATUS
and Willard Crotty	:	UNDER 37 CFR 1.47(a)
Application No. 11/043,248	:	
Filed: January 26, 2005	:	
Atty Docket No. 65703-0123	:	

This is a decision on the REQUEST TO RECONSIDER PETITION UNDER 37 C.F.R. § 1.47(a) filed July 17, 2006.

The petition is **GRANTED**.

The above-identified application was filed on January 26, 2005, without an executed oath or declaration. Glenn Snyder, Keith Boyle and Willard Crotty were identified as joint inventors. In response to the NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION mailed March 7, 2005, on September 7, 2005, applicants filed the initial petition under 1.47(a).

By decision mailed April 13, 2006, the petition was dismissed for failure to submit adequate proof that the non-signing inventor cannot be reached or found, after diligent effort, or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); and failure to submit an acceptable oath or declaration in compliance with 35 U.S.C. §§115 and 116. The petition did not show that rule 47 applicants had made a bona fide attempt to present the application papers to the non-signing inventor before refusal by the inventor was alleged. Further, petitioner only alleged that joint inventor Snyder would not join in the application. However, it did not appear

that the petition included an acceptable declaration executed by inventors Boyle and Crotty on behalf of themselves and on behalf of non-signing inventor Snyder.

On instant petition, by declaration of patent attorney William Hanlon, Jr. and supporting documentary evidence, applicants have shown that the application papers have now been presented to the non-signing inventor Snyder. Further, the declaration further shows that inventor Snyder has, by his conduct in not responding, refused to join in the application.

On renewed petition, petitioner submitted a declaration executed by attorney Hanlon on behalf of the non-signing inventor. This is improper. As previously stated, 37 CFR 1.47(a) and 35 U.S.C. 116, second paragraph, require all available joint inventors to file an application "on behalf of" themselves and on behalf of a joint inventor who "cannot be found or reached after diligent effort" or who refuses to "join in an application." Thus, in addition to other requirements of law (35 U.S.C. 111(a) and 115), in an application deposited in the U.S. Patent and Trademark Office pursuant to 37 CFR 1.47(a):

(A) All the available joint inventors must (1) make oath or declaration on their own behalf as required by 37 CFR 1.63 or 1.175 (see MPEP §602, §605.01, and §1414) and (2) make oath or declaration on behalf of the non-signing joint inventor as required by 37 CFR 1.64. An oath or declaration signed by all the available joint inventors with the signature block of the non-signing inventor(s) left blank may be treated as having been signed by all the available joint inventors on behalf of the non-signing inventor(s), unless otherwise indicated.

(Emphasis added).

An acceptable declaration pursuant to 1.47(a) must be signed by all available inventors on behalf of themselves and on behalf of the non-signing inventor. Nonetheless, a second review of the petition as originally filed reveals that the declaration filed September 7, 2005 was executed by inventors Boyle and Crotty on behalf of themselves and on behalf of non-signing inventor Snyder.

The declaration filed September 7, 2005, has been reviewed and found in compliance with § 1.63. The petition includes the petition fee and the last known address of inventor Snyder.

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
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GLENN SNYDER
339 MAPLE ROAD
QUINCY, MI 49082

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NOV 1 3 2006
OFFICE OF PETITIONS

In re Application of	:	
Glenn Snyder, Keith Boyle	:	
and Willard Crotty	:	LETTER
Application No. 11/043,248	:	
Filed: January 26, 2005	:	
Attorney Docket No. 65703-0123	:	

Dear Mr. Snyder:

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

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS, MI 48304-0610

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,276	01/25/2005	2621	1530	040559	12	28	3

CONFIRMATION NO. 8095

UPDATED FILING RECEIPT

OC000000019734971

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, CA 92121-1714

Date Mailed: 07/25/2006

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)

Szepo Robert Hung, Carlsbad, CA;

Power of Attorney: The patent practitioners associated with Customer Number **23696**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/583,779 06/28/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/06/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,276

Projected Publication Date: 11/02/2006

Non-Publication Request: No

Early Publication Request: No

Title

Adaptive filters and apparatus, methods, and systems for image processing

Preliminary Class

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.

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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).

HARD FILE

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 8/01/2006

DATE : 7/12/06

TO SPE OF : ART UNIT 1638

SUBJECT : Request for Certificate of Correction for Appl. No.: 7005564 Patent No.: 11/043292

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: _____

SPE

1638
Art Unit

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MAR 30 2007

OFFICE OF PETITIONS

ALBERT W. WATKINS
30844 NE 1ST AVENUE
ST. JOSEPH MN 56374

RECEIVED

CANCELLED

MAR 30 2007

OFFICE OF PETITIONS

In re Application of
Steven W. Lundquist et al.
Application No. 11/043,299
Filed: January 25, 2005
Attorney Docket No. LundquistGolfAid

ON PETITION

This is a decision on the "Request For Withdrawal of Notice of Abandonment" filed February 13, 2007 which is treated as a petition under 37 CFR 1.181 to withdraw the holding of abandonment for the above-identified application.

The petition to withdraw the holding of abandonment is **GRANTED**.

The application was held abandoned on July 28, 2006 for failure to file a timely response to the Final Office Action mailed April 27, 2006, which set a three (3) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. Accordingly, a Notice of Abandonment was mailed January 8, 2007.

Petitioner asserts that a proper response, was filed via facsimile transmission on July 27, 2006. In support, petitioner submits a copy of the reply said to have been filed, which includes a certificate of facsimile transmission pursuant to 37 CFR 1.8 and was acknowledged by the U.S. Patent and Trademark Office in an Auto-Reply Facsimile Transmission.

The evidence submitted corroborates a timely response to the Final Office Action. Accordingly, the holding of abandonment is withdrawn and the Notice of Abandonment is vacated. No petition fee Is due and none has been charged.

This matter is being referred to Technology Center 3711 for appropriate action on the amendment filed July 27, 2006, a copy of which was submitted February 13, 2007 with the instant petition.

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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AUG 22 2006
OFFICE OF PETITIONS

Valeo, Inc.
Intellectual Property Department
4100 North Atlantic Boulevard
Auburn Hills MI 48326

In re Application of	:	
Powers, et al	:	
Application No. 11/043,310	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. RUS0132	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas Liniak on behalf of himself.

All other attorneys/agents remain of record.

The correspondence address of record remains unchanged.

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

April Wise
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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WOODARD, EMHARDT, MORIARTY, MCNETT & HENRY LLP
BANK ONE TOWER/CENTER
111 MONUMENT CIRCLE
SUITE 3700
INDIANAPOLIS, IN 46204-5137

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AUG 0 9 2005

OFFICE OF PETITIONS

In re Application of	:	
Brumfield, et al.	:	
Filed: January 26, 2005	:	ON PETITION
Application No. 11/043,318	:	
Atty. Dkt. No.: PC966.00/4002-3627	:	

This decision is in response to the "PETITION TO ESTABLISH PRIOR RECEIPT IN THE P.T.O. OF ITEM CONSIDERED AS OMITTED BY P.T.O.," filed May 2, 2005, requesting a determination that Figure 7 was filed with the application and that the petition fee submitted herewith be refunded.

The petition is hereby **GRANTED TO THE EXTENT INDICATED HEREIN**.

The above-identified application was filed January 26, 2005. The Notice to File Missing Parts of Nonprovisional Application ("Notice") mailed March 7, 2005, indicated, *inter alia*, that Figure 7 as described in the application appeared to have been omitted from the application as filed.

The Notice permits applicant to either: (1) establish prior receipt in the PTO of page 7 of the specification; (2) submit the omitted page of specification and accept the date of such submission as the application filing date. An assertion that the missing page of specification was in fact deposited in the PTO with the application papers must made by way of petition (and the appropriate petition fee) with evidence of such deposit. An applicant desiring to submit the omitted item in a nonprovisional application and accept the date of such submission as the application filing date must file any omitted item with an oath or declaration in compliance with 37 CFR 1.63 and 1.64 referring to such item and a petition under 37 CFR 1.182 (with the petition fee under 37 CFR 1.17(h)) requesting the later filing date within two months of the date of the Notice (37 CFR 1.181(f)); or (3) take no action thereby constructively accepting the application filed as in the USPTO without the omitted item. Failure to take any action requires

amendment of the specification to cancel reference to the omitted item.

Petitioners contend that Figure 7 was submitted with the application, but that the rendering of Figure 7 was unlabeled.

Petitioners are arguing that no drawings were actually omitted from the application as filed but instead that Figure 7 was not so labeled on the drawing sheet.

Since it is obvious from the petition that no figure was actually missing on January 26, the application will be processed using the drawings filed on January 26, 2005.

However, the Notice was correct in advising applicant that Figure 7 appeared to have been omitted. Therefore, the Notice was properly mailed and will not be withdrawn.

The petition fee will not be refunded since the petition was not necessary to correct any PTO error.

To prevent delays in processing, petitioners are advised to submit a preliminary amendment to the specification to seek admission of the formal drawings submitted herewith prior to the issuance of the first Office action on the merits.

The application is being returned to Initial Patent Examination Division for further processing with a filing date of January 26, 2005, using the seven sheets of drawings filed on that date.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: David L. Brumfield	: DECISION ON REQUEST FOR
Patent Number	: 7625376	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/043,318	: 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 **929** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
11/043,346	01/25/2005	2161	2000	END920040181US1	6	36	4

CONFIRMATION NO. 8143

CORRECTED FILING RECEIPT

OC000000017713373

30449
SCHMEISER, OLSEN + WATTS
3 LEAR JET LANE
SUITE 201
LATHAM, NY 12110

Date Mailed: 12/22/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Joan L. Mitchell, Longmont, CO;
Grant D. Miller, Superior, CO;

Assignment For Published Patent Application

International Business Machines Corporation, Armonk, NY

Power of Attorney: The patent practitioners associated with Customer Number **30449**.

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,346

Projected Publication Date: 07/27/2006

Non-Publication Request: No

Early Publication Request: No

Title

Visual association of content in a content framework system

Preliminary Class

707

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER
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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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NOT GRANTED

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

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Davidson, Davidson & Kappel, LLC
485 7th Avenue
14th Floor
New York NY 10018

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MAR 23 2009

OFFICE OF PETITIONS

In re Application of
German et al.
Application No. 11/043,353
Filed: January 26, 2005
Attorney Docket No. 510.1123

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 9, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a response to a non-final Office Action, which was mailed on August 7, 2008. 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 8, 2008. A Notice of Abandonment was mailed on March 9, 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 $1620, and (3) a proper statement of unintentional delay.

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

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received.

Charlema Grant
Petitions Attorney
Office of Petitions

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F. CHAU & ASSOCIATES, LLC
130 WOODBURY ROAD
WOODBURY, NY 11797

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JUN 22 2009

OFFICE OF PETITIONS

In re Application of
Gary SHKEDY
Application No. 11/043,382
Filed: January 26, 2005
Attorney Docket No. **19425**

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 4, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to F. CHAU & ASSOCIATES, LLC has been revoked by the applicant of the patent application on March 23, 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 the undersigned at 571-272- 7253.

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

cc: **SHELDON MAK ROSE & ANDERSON, PC**
100 CORSON STREET, THIRD FLOOR
PASADENA, CA 91103-3842

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JUL 14 2005

Attention of Karen S. Canady
Gates & Cooper LLP
Howard Hughes Center, Suite 1050
6701 Center Drive West
Los Angeles CA 90045

In re Application of	
Chung et al.	:
Serial No.: 11/043,387	:
Filed: January 26, 2005	: PETITION TO MAKE SPECIAL
Attorney Docket No.: G&C 178.1-US-D2	:
	:

This is in response to applicants' petition filed June 27, 2005, to make the above-identified application special under the provisions of 37 CFR 1.102(d).

Applicants have satisfied the provisions set forth in M.P.E.P. 708.02, VIII. (A), (B), (C), (D), and (E). The $130.00 petition fee as required by 37 CFR 1.17(h) was received. Therefore, the petition is **GRANTED**.

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

Should there be any questions with regard to this letter please contact Marianne C. Seidel by letter addressed to the Director, Technology Center 1600, P.O. Box 1450, Alexandria, VA 22313-1450, or by telephone at 571-272-0584 or by facsimile transmission at the general Office facsimile number, (703) 872-9306.

Marianne C. Seidel

Marianne C. Seidel
Special Program Examiner
Technology Center 1600

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STEVEN L. NICHOLS
RADER, FISHMAN & GRAVER PLLC
10653 S. RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN UT 84095

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of
Rudolph V. Park et al.
Application No. 11/043,404
Filed: January 25, 2005
Attorney Docket No. 40328-0006 (AB-233U2A)

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

This is in response to the petition filed under 37 CFR 1.47(a) on January 25, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed on January 25, 2005, naming Rudolph V. Park, Jordi Parramon, Daniel Klosterman and Goran N. Marnfeldt as joint inventors, with an oath or declaration signed only by joint inventors Parramon, Klosterman and Marnfeldt, and with the instant petition seeking status under 37 CFR 1.47(a) claiming that after diligent efforts, joint inventor Park cannot be reached.

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

Applicant lacks items (1) set forth above.

In the petition it is asserted that several telephone calls as well as telephone messages were made to the last known telephone number of joint inventor Park but that petitioners never received a phone call back from him. Petitioners assert further that after several attempts to reach Mr. Park at the telephone number associated with the last known address, on one call, they were told that Mr. Park no longer lived at the address associated with the last known telephone number.

The evidence presented is not sufficient to show that Mr. Park cannot be located, since no proof has been presented to that end. If petitioners are satisfied that Mr. Park no longer lives at the last known address and would like to renew the argument that Mr. Park cannot be located, petitioners must present a showing that diligent efforts have been made to locate him.[1] Petitioners must however provide details, in an affidavit or declaration of facts by a person with first hand knowledge of the details, of the additional efforts to locate Mr. Park such as Internet, e-mail, or telephone directory searches, which have been undertaken to locate him. If repeated attempts to contact Mr. Park by telephone, mail, and e-mail, are unsuccessful, petitioners will have established that he cannot be found despite diligent efforts.

Finally, the petition fee in the amount of $130.00 has been posted however, effective November 22, 2004, the petition fee has been increased to $200.00. Per the authorization in the application transmittal letter, deposit account no. 18-0013 has been charged an additional $70.00.

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

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

By FAX: (703) 872-9306

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

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

---

[1] MPEP 409.03(d).

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10653 S. RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN UT 84095

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JUN 0 2 2005

OFFICE OF PETITIONS

In re Application of
Rudolph V. Park et al.
Application No. 11/043,404
Filed: January 25, 2005
Attorney Docket No. 40328-0006 (AB-233U2A)

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

This is in response to the renewed petition filed under 37 CFR 1.47(a) on May 18, 2005.

The petition is **GRANTED**.

The above-identified application was filed on January 25, 2005, naming Rudolph V. Park, Jordi Parramon, Daniel Klosterman and Goran N. Marnfeldt as joint inventors, with an oath or declaration signed only by joint inventors Parramon, Klosterman and Marnfeldt. A petition was filed with the application, seeking status under 37 CFR 1.47(a) claiming that after diligent efforts, joint inventor Park could not be reached. That petition was dismissed in a decision mailed March 14, 2005 as petitioners had not provided sufficient proof that diligent efforts had been employed to locate the non-signing inventor.

Comes now petitioner with the instant request for reconsideration.

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 above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

In response to the decision dismissing the petition filed January 25, 2005, the instant petition shows that an updated address was located for Mr. Park, that correspondence was sent to him at the last known address and that several telephone calls and messages were made to a telephone number associated with that address, but that Mr. Park has neither returned an executed oath or declaration or returned the telephone calls. Thus, by his actions, it can be concluded that he refuses to cooperate with the filing of the instant patent application.

All requirements under 37 CFR 1.47(a) therefore having been met, as provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being forwarded to Technology Center 3762 for examination in due course.

Telephone inquiries related to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 0 2 2005

OFFICE OF PETITIONS

RUDOLPH V. PARK
18308 QUEEN ELIZABETH DRIVE
OLNEY, MD 20832

In re Application of
Rudolph V. Park
Application No. 11/043,404
Filed: January 25, 2005
For: SYSTEMS AND METHODS FOR COMMUNICATING WITH AN IMPLANTABLE STIMULATOR

Dear Mr. Park:

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 Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
STEVEN L. NICHOLS
RADER, FISHMAN & GRAVER PLLC
10653 S. RIVER FRONT PARKWAY
SUITE 150
SOUTH JORDAN UT 84095

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WONG, CABELLO, LUTSCH,
RUTHERFOR & BRUCCULER LLP
20333 SH 249
SUITE 600
HOUSTON, TX 77070

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APR 2 8 2008

OFFICE OF PETITIONS

In re Application of	:	
Rudolph V. Park, et al	:	
Application No. 11/043,404	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 585-0031US6/05-00435-09	:	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, 2008.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop, has been revoked by the assignee of the patent application on May 10, 2007. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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APR 1 0 2006

OFFICE OF PETITIONS

In re Application of Bunnelle :
Application No. 11/043,407 :
Filed: January 26, 2005 :
Attorney Docket No. 14369.6US11 :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed February 3, 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. No further petition fee is required for the request. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

Facts:

The application was filed on January 26, 2005, along with an unexecuted declaration. The only inventor listed on the declaration was William Bunnelle.

An executed declaration was filed on May 11, 2005. The declaration lists a single inventor, William Bunnelle.

Inventorship for an application is determined at the time a declaration signed by any of the inventors is filed with the Office. Therefore, Bunnelle became the sole inventor of record on May 11, 2005.

The instant petition is accompanied by a declaration listing Bunnelle's name as well as the name of Robert M. Hume, III. Hume did not sign the declaration. The petition requests the Office accept the declaration without Hume's signature.

Discussion:

The Office need not consider the requirements of Rule 47 because Hume is not an inventor of record. Therefore, the Office could not accept the declaration even if Hume signed the declaration.

The following discussion is provided in an attempt to assist petitioner.

To correct the inventorship for the instant application, a request under 37 CFR 1.48(a) must be filed. In general, a request under 37 CFR 1.48(a) requires:

(1) payment of $130 fee,
(2) a statement from each person being added as an inventor and from each person being deleted as an inventor that error in inventorship occurred without deceptive intention on his or her part,
(3) correct executed oath/dec (or oath/dec as permitted by 37 CFR 1.42, 1.43 or 1.47) and
(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Requirement (2) above:

Petitioner may wish to file a petition under 37 CFR 1.183 requesting waiver of the requirement of a statement of lack of deceptive intent from Hume. Unless Hume has given some indication he believes he is not an inventor, the showing is similar to a showing under 37 CFR 1.47. In other words, the showing filed with a grantable petition 37 CFR 1.47 will usually satisfy the showing required under 37 CFR 1.183. The fee for a petition under 37 CFR 1.183 is $400.

Requirement (3) above:

Petitioner does not need to file a petition under 37 CFR 1.183 requesting waiver of 37 CFR 1.48(a)(3).

In general, after a fully executed oath or declaration is filed, the provisions of 37 CFR 1.47 no longer apply. Rather, the remedy for treating an inventor's refusal to also sign a supplemental oath or declaration is waiver of 37 CFR 1.67. See MPEP 603. *However*, 37 CFR 1.47 is applicable when adding an inventor who has never signed any oath or declaration.

Example: Suppose A, B, and C sign a declaration listing only A, B, and C as the inventors. Thereafter, D needs to be added as an inventor. If one cannot obtain D's signature, one can file a petition under 37 CFR 1.47(a).

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

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

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

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

The current fee for a petition under 37 CFR 1.47 is $200. Petitioner submitted $130. Therefore, $70 has been charged to petitioner's deposit account.

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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MINNEAPOLIS, MN 55402-0903

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JUL 03 2006

OFFICE OF PETITIONS

In re Application of Bunnelle	:	Decision According Status
Application No. 11/043,407	:	Under 37 CFR 1.47(a) and
Filed: January 26, 2005	:	Correcting Inventorship
Attorney Docket No. 14369.6US11	:	

This is a decision on the petition under 37 CFR 1.48(a), 37 CFR 1.183, and 37 CFR 1.47 filed April 27, 2006.

The petition under 37 CFR 1.48(a) is **granted**.

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

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

Facts:

The application was filed on January 26, 2005, along with an unexecuted declaration. The only inventor listed on the declaration was William Bunnelle.

An executed declaration was filed on May 11, 2005. The declaration listed a single inventor, William Bunnelle.

Inventorship for an application is determined at the time a declaration signed by any of the inventors is filed with the Office. Therefore, Bunnelle became the sole inventor of record on May 11, 2005.

Petitioner determined the correct inventors are William Bunnelle and Robert M. Hume, III.

Petitioner had Bunnelle sign a new declaration listing both Bunnelle and Hume as joint inventors. Petitioner attempted to obtain Hume's signature, but Hume refused to sign the declaration.

Petitioner wishes to have the inventorship corrected and to have the new declaration signed by Bunnelle, but not Hume, accepted by the Office.

The Request Under 37 CFR 1.48(a):

In general, a request under 37 CFR 1.48(a) requires:

(1) payment of $130 fee,
(2) a statement from each person being added as an inventor and from each person being deleted as an inventor that error in inventorship occurred without deceptive intention on his or her part,
(3) a correct executed oath/dec (or oath/dec as permitted by 37 CFR 1.42, 1.43 or 1.47) and
(4) if an assignment has been executed by any of the original named inventors, the written consent of the assignee.

Requirement (1) has been met by the submission of $130.

Requirement (2) will be met later in this paper upon waiver of the requirement.

Requirement (3) will be met later in this paper upon the Office according the application status under 37 CFR 1.47(a).

Requirement (4) has been met by the submission of the consent of Adherent Laboratories.

Since petitioner has met, or had waived, the requirements of 37 CFR 1.48(a), the petition under 37 CFR 1.48(a) is granted.

The inventorship of the application will be changed by the addition of inventor Hume. Enclosed is a corrected filing receipt reflecting the corrected inventorship.

The Petition Under 37 CFR 1.183:

In general, when adding an inventor pursuant to 37 CFR 1.48(a), one must file a statement from the person being added as an inventor that the error in inventorship occurred without deceptive intention on his or her part.

Upon consideration of all the facts and circumstances, the Office has concluded justice would be served by waiving the requirement for the statement of a lack of deceptive intent by Hume.

The Petition Under 37 CFR 1.47(a):

As stated in a prior decision mailed April 10, 2006, 37 CFR 1.47 is applicable when one is adding an inventor and the inventor will not to sign an oath or declaration.

Petitioner has provided a showing in compliance with 37 CFR 1.47(a). Therefore, 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 and will publish notice of the filing in the Official Gazette.

Steps to be taken by the Office:

The Office of Petitions has:

(1) changed computer PALM records to indicate Hume is an inventor of record,
(2) printed a new Bib Data sheet, listing both inventors, and have the new sheet scanned into the image file wrapper,
(3) annotated the entries in the Image File Wrapper, for declarations filed with only one inventor listed, to indicate an inventor has been added,
(4) changed computer PALM records to indicate the application has been accorded status under 37 CFR 1.47(a),
(5) changed computer PALM records to indicate Hume is a non-signing inventor, and
(6) prepared a letter to mail to Hume, with a copy to petitioner, concerning the grant of the Rule 47 petition.

The Office of Initial Patent Examination will be informed of the instant decision and will prepare the application for consideration by the examiner 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

Enclosure: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,407	01/26/2005	1711	740	14369.6USI1		27	3

CONFIRMATION NO. 4737
CORRECTED FILING RECEIPT
OC000000019437077
OC000000019437077

23552
MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS, MN 55402-0903

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JUL 0 3 2006
OFFICE OF PETITIONS

Date Mailed: 06/29/2006

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)

William L. Bunnelle, Ham Lake, MN;
Robert M. Hume III, Woodbury, MN;

Power of Attorney: The patent practitioners associated with Customer Number **23552**.

Domestic Priority data as claimed by applicant

This application is a CIP of 10/816,748 04/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 04/20/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is
US11/043,407

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Water soluble contact lens blocking composition with absorbent disintegrant

Preliminary Class

525

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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Date Mailed: September 17, 2007

BRADLEY ARANT ROSE & WHITE LLP
200 CLINTON AVE. WEST
SUITE 900
HUNTSVILLE AL 35801

Applicant: Wydner
Appl. No.: 11/043,417
Filing Date: January 26, 2005
Title: FALL-ARRESTING SAFETY HARNESS WITH AN IMPROVED BUCKLE
Attorney Docket No.: 0H860-90326
Pub. No.: US 2006/0124389 A1
Pub. Date: June 15, 2006

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

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

37 CFR 1.221(a) requires "a copy of the application in compliance with the Office electronic filing system requirements and be accompanied by the publication fee set forth in § 1.18(d) and the processing fee set forth in § 1.17(i)". If the request for republication does not comply with the electronic filing system requirements, the republication will not take place and the publication fee set forth in § 1.18(d) will be refunded. The processing fee will be retained.

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

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

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

By mail to: Mail Stop PGPUB
Commissioner for Patents
P.O. Box 1450
Alexandria, Va. 22313-1450

By facsimile: 571-273-8300

Telephone inquiries regarding this correspondence should be directed to The Office of Patent Publication, Pre-Grant Publication Division, 703-605-4283.

Tammy J. Koontz
Program & Management Analyst
Pre-Grant Publication Division
Office of Patent Publication

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Paper No.

Friedrich Kueffner
Suite 910
317 Madison Avenue
New York NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Scheyer	:	
Application No. 11/043,421	:	DECISION ON PETITION
Filed: January 26, 2005	:	PURSUANT TO
Attorney Docket No.: HF-75	:	37 C.F.R. § 1.137(B)
Title: LEVEL	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed March 25, 2009, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **DISMISSED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 17, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on June 18, 2006. A Notice of Abandonment was mailed on July 21, 2006.

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Applicant has submitted the issue, publication, and issue fees. A terminal disclaimer is not required. As such, requirement one of Rule 1.137(b) has been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

Regarding the second requirement, 37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. **Applicant must provide this precise statement on renewed petition.**

Regarding the third requirement, Applicant has not established that the entire period of delay was unintentional. It is noted that the present petition was not filed until more than two years and eight months had passed since the mailing of the notice of abandonment. It is not clear why the Applicant chose to take no course of action for such a long period of time. It does not appear that any action was taken to further the prosecution of this application, subsequent to the mailing of the notice of abandonment on July 21, 2006, for more than two years and eight months.

It is equally unclear what, after all of this time, prompted the Applicant to advance the prosecution of this application.

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3 See Rule 1.137(d).

As such, it appears that the Applicant intentionally allowed this application to go abandoned. The extended inaction of the Applicant appears to be intentional.

A discussion follows.

In order for a petition under 37 C.F.R. § 1.137(b) to be granted, the holder of the rights to the application must have unintentionally allowed the application to go abandoned, and a delay resulting from a deliberately chosen course of action on the part of the applicant is not an "unintentional" delay within the meaning of 37 C.F.R. § 1.137(b).

The periods of delay:

There are three periods to be considered during the evaluation of a petition under 37 C.F.R. § 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;
(2) the delay in filing an initial petition pursuant to 37 C.F.R. § 1.137(b) to revive the application; and
(3) the delay in filing a grantable petition pursuant to 37 C.F.R. § 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) or (2).

As to Period (1), the patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Commissioner to accept a petition "for the revival of an unintentionally abandoned

application for a patent." As amended December 1, 1997, 37 C.F.R. § 1.137(b)(3) provides that a petition under 37 C.F.R. § 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here there is a question whether the initial delay was unintentional, the Applicant must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay of more than two years and eight months in resuming prosecution, there is a question whether the entire delay was unintentional. Applicant should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 C.F.R. § 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment. That party, in turn must explain what effort(s) was made to reply to the outstanding Office action and further, why no reply was filed. If no effort was made to reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Applicant should explain why this application became abandoned subsequent to the mailing of the Notice of Allowance and Issue Fee Due of March 17, 2006. **Statements from both the Applicant and the former counsel of record must be provided.**[4] It must be explained why no response was submitted to this notice for such an extended period of time.

As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996)(unpublished) (patents held unenforceable due to a finding

4 It is noted that both a change of Power of Attorney was filed concurrently with this petition.

of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2), where the applicant deliberately chose not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 C.F.R. § 1.137(b)[5].

The language of both 35 U.S.C. § 41(a)(7) and 37 C.F.R. § 1.137(b) are clear and unambiguous, and furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 C.F.R. § 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated clear that any protracted delay (here, two years and eight months) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from both the Applicant and former counsel, explaining why this petition was not filed sooner.

Applicant has indicated that he was "not immediately made aware of the Abandonment of the above application."[6] **On renewed**

5 See MPEP § 711.03(c).
6 Petition, page 1.

petition, a statement must be provided from the former counsel of record, explaining both why the abandonment was not immediately brought to Applicant's attention, as well as the "clerical error" referred to on page one of this petition.

Moreover, Applicant has alleged that the prior counsel of record, "[d]espite assurances that a Petition to Revive the Application would be filed, the Applicant's previous attorney never filed such a petition."[7] **On renewed petition, prior counsel of record must explain why this petition was never filed, and Applicant must explain why he waited so long to effectuate the fling of this petition on his behalf.**

Applicant has asserted that "several inquiries and reminders" were provided to former counsel,[8] in order to attempt to secure the filing of this petition. **On renewed petition, Applicant must indicate when these inquiries and reminders were made, and must indicate whether they were made orally or in writing. These communications must either be described/copies provided, as appropriate. Moreover, a statement from former counsel must be provided, indicating if these communications were received, and if so, why they were not acted on in a prompt manner.**

Applicant is reminded that the Office must rely on the actions or inactions of duly authorized and voluntarily chosen representatives of the applicant, and the applicant is bound by the consequences of those actions or inactions.[9]

The actions of the attorney are imputed to the client, for when a petitioner voluntarily chooses an attorney to represent him, the petitioner cannot later distance himself from this attorney, so as to avoid the repercussions of the actions or inactions of this selected representative, for clients are bound by the acts of their lawyers/agents, and constructively possess "notice of all facts, notice of which can be charged upon the attorney[10]."

Courts hesitate to punish a client for its lawyer's gross negligence, especially when the lawyer affirmatively misled the client," but "if the client freely chooses counsel, it should be bound to counsel's actions[11]."

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7 Id.
8 Id. at 2.
9 Link v. Wabash, 370 U.S. 626, 633-634 (1962).
10 Link at 633-634.
11 Inryco, Inc. v. Metropolitan Engineering Co., Inc., 708 F.2d 1225, 1233 (7th Cir. 1983). See also, Wei v. State of Hawaii, 763 F.2d 370, 372 (9th Cir. 1985); LeBlanc v. I.N.S., 715 F.2d 685, 694 (1st Cir. 1983).

Punctuality and Due Diligence:

For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894).

Similarly, an invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. §6; 37 C.F.R.§§1.181, 182, 183.

The lengthy period of inaction does not appear to be consistent with the requirements of punctuality, due diligence, good faith, and the encouragement of reasonable promptness.

On renewed petition, Applicant will need to address each of these issues, and include statements from both the Applicant and former counsel, if it is to be established that the entire period of delay was unintentional.

Applicant is reminded that any statement of facts should be made by one having firsthand knowledge of the facts set forth therein.

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

Thereafter, there will be no further reconsideration of this matter[12, 13].

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12 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. § 6; 37 C.F.R. §§ 1.181, 182, 183.

The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[14], hand-delivery[15], or facsimile[16]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[17].

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225[18]. All other inquiries concerning examination procedures should be directed to the Technology Center.

It is noted that the address listed on the petition differs from the address of record. The application file does not indicate a change of correspondence address has been filed in this case, although the address given on the petition differs from the address of record. If Petitioner desires to receive future correspondence regarding this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank

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13 If, on the second request for reconsideration, Applicant fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.
14 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
15 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
16 (571) 273-8300- please note this is a central facsimile number.
17 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html
18 Applicant will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Applicant is reminded that no telephone discussion may be controlling or considered authority for Applicant's further action(s).

Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at http://www.uspto.gov/web/forms/sb0122.pdf.

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.[19] 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 the delay was intentional, Petitioner must notify the Office.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

cc: W. Douglas Hahm
Wenderoth Lind & Ponack, L.L.P.
1030 15th Street, N.W.
Suite 400 East
Washington, DC 20005

19 See 37 C.F.R. § 10.18(b); cf. 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).

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FEB 17 2010

OFFICE OF PETITIONS

WENDEROTH, LIND & PONACK, L.L.P.
1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

In re Application of	:	
Wolfgang Scheyer	:	
Application No. 11/043,421	:	REQUEST FOR MORE
Filed: January 26, 2005	:	INFORMATION
Attorney Docket No.: HF-75	:	
Title: LEVEL	:	

This is a request for more information, in response to the renewed petition pursuant to 37 C.F.R. § 1.137(b), filed July 2, 2009, to revive the above-identified application.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 17, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on June 18, 2006. A Notice of Abandonment was mailed on July 21, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on March 25, 2009, along with the issue, publication, and issue fees. The original petition was dismissed via the mailing of a decision on May 4, 2009, which indicated that requirements one and three of Rule 1.137(b) had been met, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

Regarding the second requirement, 37 C.F.R. § 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional. It is noted that this precise statement was included with neither the original nor this renewed petition. **Applicant must provide this precise statement in any response to this request for more information - the failure to include this exact statement will result in a denial of this renewed petition.**

Regarding the third requirement, the decision on the original petition set forth that due to the lengthy period of delay in filing the original petition (more than two years and eight months passed since the mailing of the notice of abandonment), statements from the Applicant and former counsel (Friedrich Kueffner) would need to be included. With this petition, Petitioner has included statements from the inventor and the European Attorney (Ralf Hofmann).

Moreover, with this renewed petition, Petitioner has explained that the inventor communicated directly with his European Attorney, Mr. Hoffmnan, who communicated with Mr. Kueffner, the former U.S. attorney - put another way, in this relationship, the inventor acted as the principal, Mr. Hofmann was his agent, and Mr. Kueffner acted as a sub-agent of the principal. Petitioner has asserted that the delay was caused by Mr. Kueffner, and that the inventor never had any direct contact with Mr. Kueffner.[4]

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3 See Rule 1.137(d).
4 Renewed petition, page 2.

Petitioner has further included an unsigned two-page "informal communication" statement that was purportedly received from Mr. Kueffner. The first page of which is written in the German language. No translation has been provided, and as such, the contents of the same have not been considered by the undersigned. That being the case, it appears that the second page of this communication contains the actual statement from Mr. Kueffner. However, as Petitioner has pointed out, this statement has not been executed. As such, this statement cannot be considered, pursuant to 37 C.F.R. § 1.4(d)(1).

The statement of Mr. Hofmann indicates that on June 2, 2006, he instructed Mr. Kueffner to pay the issue fee, and status requests were submitted to him on October 23, 2007, November 13, 2007, and December 6, 2007, as well as April 17, 2008 and May 8, 2008.[5] On May 8, 2008, Mr. Hofmann learned that the application had gone abandoned, and Mr. Kueffner allegedly indicted that he would submit a petition to revive the application.[6] Mr. Hofmann then sent status updates to Mr. Kueffner on September 25, 2008, October, 24, 2008, January 21, 2009, and January 30, 2009. No response was forthcoming, and on February 5, 2009, Mr. Hofmann retained an alternate American sub-agent, the law firm which submitted both the original and this renewed petition.[7]

The record does not support a finding that the entire period of delay was unintentional. The Office is mailing this request for more information, so as to provide Petitioner with one additional opportunity to submit documentation which might support a finding that the entire period of delay was unintentional.

1. It is noted with interest that while Petitioner, the inventor, and Mr. Hofmann have each discussed the failure to timely submit the issue fee, the undersigned has been unable to find any reference to the failure to have timely submitted *the publication fee* in either the renewed petition, the statement of Mr. Hofmann, the statement of the inventor, or the letter which Mr. Hofmann sent to Mr. Kueffner on May 8, 2009. In response to this inquiry, Petitioner, the inventor, and Mr. Hofmann must each explain why their statements pertaining to the abandonment of this application fail to contain any reference to the failure to submit the publication fee in a timely manner.

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5 Hofmann statement of facts submitted with renewed petition, page 2.
6 Id.
7 Id.

Moreover, the signed statement of Mr. Kueffner should refer to the timely failure to submit both the publication and the issue fees.

2. Applicant has not sufficiently explained why this application became abandoned subsequent to the mailing of the Notice of Allowance and Issue Fee Due of March 17, 2006 - a statement from the former counsel of record, Mr. Kueffner, must be provided, since the statement which was submitted with this renewed petition cannot be entered.

3. Mr. Kueffner must indicate why he failed to respond to the majority of the communications which were sent to him by Mr. Hofmann (the first three of the four letters concerning the status of the application went unanswered, and each of the four letters concerning the revival of this application went unanswered), as the continued failure to respond to the plurality of inquiries concerning the status of the application and the complete failure to respond to any of the multiple communications pertaining to the revival of this application appears to be intentional.

4. Mr. Kueffner must indicate why he failed to immediately notify Mr. Hofmann of the abandonment of this application.

5. Mr. Kueffner must indicate why he failed to file a petition to revive, despite the assurance which he provided to Mr. Hofmann that such a petition was in the process of being prepared.[8]

6. Mr. Hofmann has indicated that his delay in taking alternate steps to both secure the submission of the issue fee and the filing of a petition to revive was due to his firm's long-standing relationship with Mr. Kueffner, and has stated "as the work of Mr. Kueffner has always been reliable, I fully expected that the matter would be handled in a professional manner by taking all necessary actions to keep this application in force or, if an error had occurred, to have the application reinstated."[9] In response to this inquiry, Mr. Hofmann must indicate why it took the passage of so much time and so many unanswered articles of correspondence for him to come to the conclusion that Mr. Kueffner would not secure first the

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8 See e-mail dated May 8, 2008, from Mr. Kueffner to "office@vpat.at."
9 Hofmann statement of facts provided with renewed petition, pages 2-3.

submission of the issue fee, and then both the late acceptance of the same and the revival of this application on his behalf.

Any response to this inquiry must be filed within **ONE MONTH** of the mailing date of this communication. **This time period is not extendable.** After decision on the renewed petition and the response to this inquiry, no further reconsideration or review of the matter will be undertaken by the Commissioner.[10, 11]. Accordingly, when responding to this inquiry, it is extremely important that petitioner supply **any** and **all** relevant information and documentation in order to meet his burden of showing unintentional delay. This includes statements by all persons with direct knowledge of the cause of the delay, setting forth the facts as they know them. Petitioner must address each of the deficiencies noted above.

The response to this inquiry should include a cover letter entitled "Response to Request for More Information." This is not a final agency action within the meaning of 5 U.S.C § 704.

The response to this inquiry should indicate in a prominent manner that the attorney handling this matter is Paul Shanoski, and may be submitted by mail[12], hand-delivery[13], or facsimile[14]. Registered users of EFS-Web may alternatively submit a response to this decision via EFS-Web[15].

If responding by mail, Applicant is advised not to place the undersigned's name on the envelope. Only the information that

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10 For more than a century, punctuality and due diligence, equally with good faith, have been deemed essential requisites to the success of those who seek to obtain the special privileges of the patent law, and they are demanded in the interest of the public and for the protection of rival inventors. See: Porter v. Louden, 7 App.D.C. 64 (C.A.D.C. 1895), citing Wollensak v. Sargent, 151 U.S. 221, 228, 38 L. Ed. 137, 14 S. Ct. 291 (1894). An invention benefits no one unless it is made public, and the rule of diligence should be so applied as to encourage reasonable promptness in conferring this benefit upon the public. Automatic Electric Co. v. Dyson, 52 App. D.C. 82; 281 F. 586 (C.A.D.C. 1922). Generally, 35 U.S.C. § 6; 37 C.F.R. §§ 1.181, 182, 183.
11 If, in response to this request for more information, Applicant fails to satisfy the showings burden required: (a) the resulting decision may be one viewed as final agency action; and (b) provisions for reconsideration, such as those at 37 C.F.R. §1.137(e), will **not** apply to that decision.
12 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
13 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
14 (571) 273-8300- please note this is a central facsimile number.
15 https://sportal.uspto.gov/authenticate/authenticateuserlocalepf.html

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[16]. All other inquiries concerning examination procedures should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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1030 15th Street, N.W.,
Suite 400 East
Washington DC 20005-1503

MAILED

JUN 29 2010

OFFICE OF PETITIONS

In re Application of	:	
Wolfgang Scheyer	:	DECISION ON RENEWED
Application No. 11/043,421	:	PETITION PURSUANT TO
Filed: January 26, 2005	:	37 C.F.R. § 1.137(B)
Attorney Docket No.: HF-75	:	
Title: LEVEL	:	

This mailing is in response to the "RESPONSE TO REQUEST FOR MORE INFORAMTION," filed March 5, 2010, which seeks the revival of the above-identified application.

The renewed petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to submit the issue and publication fees in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed March 17, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting issue[1] or publication fees.[2] Accordingly, the above-identified application became abandoned on June 18, 2006. A Notice of Abandonment was mailed on July 21, 2006.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed;
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
(3) A statement that the entire delay in filing the

1 See MPEP § 710.02(e)(III).
2 See 37 C.F.R. § 1.211(e).

required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

(4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

An original petition pursuant to 37 C.F.R. § 1.137(b) was filed on March 25, 2009, along with the issue, publication, and issue fees. The original petition was dismissed via the mailing of a decision on May 4, 2009, which indicated that requirement one of Rule 1.137(b) had been met, and that the fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.[3]

The renewed petition was filed on July 2, 2009, and a request for more information was mailed on February 17, 2010.

With this response to the request for more information, the first three requirements of Rule 1.137(b) have been satisfied.

The record (including the submissions filed on March 25, 2009, July 2, 2009, and March 5, 2010) does not necessitate a finding that the delay between midnight on June 17, 2006 (the date of abandonment) and March 5, 2010 (the date of the filing of this submission which renders the underlying petitions grantable), was not unintentional.

Rather, the Patent and Trademark Office is relying in this matter on the duty of candor and good faith of Douglas Hahm (Reg. No. 44,142), Friedrich Kueffner (Reg. No. 29,482), Wolfgang Scheyer, and Ralf Hofmann when accepting Petitioner's representation that the delay in filing the response <u>was</u> unintentional.[4]

The Office of Patent Publication will be notified of this decision, and jurisdiction over this application is transferred

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3 See Rule 1.137(d).

4 See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. § 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 C.F.R. § 1.137(b) to the Patent and Trademark Office).

to the Office of Patent Publication, so that this application can be processed into a patent.

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.[5] All other inquiries concerning the status of the application should be directed to the Office of Patent Publication at 571-272-4200.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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

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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
11/043,426	01/26/2005	3672	1680	TOTCO 002	6	31	2

CONFIRMATION NO. 4741

CORRECTED FILING RECEIPT

OC000000015873253

Guy McClung
PMB 347
16690 Champion Forest Drive
Spring, TX 77379-7023

Date Mailed: 04/26/2005

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

Applicant(s)

William Leo Koederitz, Cedar Park, TX;
Terry Lynn Tarvin, Austin, TX;

Power of Attorney:

Guy McClung III–29008

Domestic Priority data as claimed by applicant

Foreign Applications

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 US11/043,426

Projected Publication Date: 07/27/2006

Non-Publication Request: No

Early Publication Request: No

Title

Wellbore operations monitoring & control systems & methods

Preliminary Class

166

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

Mail Date: 04/20/2010

Applicant	: Frank Beerwerth	: DECISION ON REQUEST FOR
Patent Number	: 7618738	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/043,436	: 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 **176** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

CARPENTER & KULAS, LLP
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO, CA 94303

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JUL 0 8 2005
OFFICE OF PETITIONS

In re Application of	:	
Cousins et al.	:	DECISION ON
Application No. 11/043,449	:	PETITION
Filed: January 25, 2005	:	
Atty Docket No.100112-000220US	:	
	:	

This is a decision on the "PETITION UNDER 37 CFR 1.53(E) TO ACCORD A FILING DATE" filed April 18, 2005. Applicants request that the above-identified application be accorded a filing date of January 25, 2005, with figures 1, 2, 4 and 7 considered part of the original application disclosure.

Application papers in the above-identified application were deposited on January 25, 2005. However, on March 7, 2005, the Initial Patent Examination Division mailed applicants a "Notice to File Missing Parts of Nonprovisional Application." Applicants were notified *inter alia* that the application papers had been accorded a filing date; however, figures 1, 2, 4 and 7 described in the specification appeared to have been omitted from the application.

In response, applicants timely filed the instant petition. Applicants state that as evidenced by their stamped return postcard, the application as filed included all of the Figures 1-11. In support thereof, applicants submit copies of the application as they maintain it was filed, the express mail receipt and the return postcard.

A postcard receipt which itemizes and properly identifies the items which are being filed serves as prima facie evidence of receipt in the Office of all items listed thereon on the date stamped thereon by the Office. See MPEP 503. A review of petitioners' postcard receipt reveals that: 1) it was date stamped as received in the Office of Initial Patent Examination (OIPE) on January 25, 2005; 2) it specifically identifies the items being filed, including "Figures - 11 pages" and 3) it lacks any annotation of non-receipt of any item denoted on the postcard. Thus, petitioners have shown that the items denoted were filed on January 25, 2005.

The drawing sheets already considered received in the Office on January 25, 2005, were reviewed along with the missing drawing sheet containing figures 1, 2, 4, and 7 submitted on petition. These papers together constitute the items described on the postcard receipt as "Figures - 11 pages." Petitioners have shown that the drawing sheet containing figures 91, 2, 4 and 7 described in the specification were among the items present in the application on the date of deposit and should be included in the original application papers.

Accordingly, the petition is **GRANTED**.

Given the basis for granting the petition, the petition fee is being refunded to Deposit Account No. 50-3000, as authorized.

The Office of Initial Patent Examination (OIPE) has been advised of this decision. The application has, thereby, been forwarded to the Office of Initial Patent Examination (OIPE) for:

- further processing with a filing date of January 25, 2005, using the application papers received in the Office on that date and the drawing sheets containing figures 1, 2, 4 and 7 resubmitted on petition filed April 18, 2005; and

- indication in Office records that 11 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 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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TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of	:	
COUSINS, Jeffrey et al.	:	
Application No. 11/043,449	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. **100112-000220US**	:	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 12, 2008 and resubmitted on January 28, 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 Charles Kulas on behalf of all attorneys of record who are associated with customer No. 37490. All attorneys/agents associated with the Customer Number 37490 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed November 21, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **JEFFREY COUSINS**
1995 QUAIL CIRCLE
LOUISVILLE CO 80027

cc: **COPAN SYSTEMS INC.**
1900 PIKE ROAD, UNIT A
LONGMONT CO 80501

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JUN 07 2010

OFFICE OF PETITIONS

PEARL, COHEN ZEDEK LATZER, LLP
1500 BROADWAY
12TH FLOOR
NEW YORK, NY 10036

In re Application of :
Yefim Kuperschmidt, et al. :
Application No. 11/043,456 :
Filed: January 25, 2005 :
Attorney Docket No. P-71661-US :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 6, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 3, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). A three 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 February 9, 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, and the submission required by 37 CFR 1.114; (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED** *nunc pro tunc*.

The Technology Center was without authority to act further in the case absent a grantable petition reviving this application after abandonment. Nevertheless, in view of this decision on petition the RCE is now considered a proper filing and the actions of the Technology Center taken thereafter are hereby ratified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2476 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.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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100 BOSCH BOULEVARD
NEW BERN, NC 28562

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SEP 15 2006
OFFICE OF PETITIONS

In re Application of	:	
Michael Rosenbauer	:	
Application No. 11/043,461	:	DECISION ON PETITION
Filed: January 26, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00937WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP03/09244, filed August 20, 2003, as set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/009244).

The petition is **GRANTED.**

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

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

All of the above requirements having been satisfied, the late claim for benefit of priority under 35 U.S.C. §§ 120 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 1746 for examination in due course and 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	DRAWINGS	TOT CLMS	IND CLMS
11/043,461	01/26/2005	1746	1000	2002P00937WOUS		8	2

CONFIRMATION NO. 9280

CORRECTED FILING RECEIPT

OC000000020413069

000046726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 09/13/2006

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

Applicant(s)

Michael Rosenbauer, Reimlingen, 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/EP03/09244 08/20/2003

Foreign Applications

GERMANY 10238303.0 08/21/2002
If Required, Foreign Filing License Granted: 03/15/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,461

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for adapting a rinsing program in a dishwasher machine, and corresponding dishwasher machine

Preliminary Class

134

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
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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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NOT GRANTED

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NEW BERN, NC 28562

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OFFICE OF PETITIONS

In re Application of	:	
Michael Rosenbauer	:	
Application No. 11/043,462	:	DECISION ON PETITION
Filed: January 26, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 2002P00938WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed international Application No. PCT/EP03/09243, filed August 20, 2003, as set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/009243).

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
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Frances Hicks
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,462	01/26/2005	1746	1000	2002P00938WOUS		9	2

CONFIRMATION NO. 9299

CORRECTED FILING RECEIPT

OC000000020413268

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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
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NEW BERN, NC 28562

Date Mailed: 09/13/2006

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Applicant(s)

Michael Rosenbauer, Reimlingen, 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/EP03/09243 08/20/2003

Foreign Applications

GERMANY 10238302.2 08/21/2002
If Required, Foreign Filing License Granted: 03/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,462

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for adapting a rinsing program in a dishwasher machine, and corresponding dishwasher machine

Preliminary Class

134

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.

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

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

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

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

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

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

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

NOT GRANTED

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-10-08

TO SPE OF : ART UNIT 3632

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/043466 Patent No.: 7322551

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: _____

_____ **SPE** 3632 **Art Unit**

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Alexandria, VA 22313-1450
www.uspto.gov

FRANK A. LUKASIK
1609 GOLDEN RIDGE DRIVE
THE VILLAGES FL 32162

COPY MAILED

FEB 21 2006

OFFICE OF PETITIONS

In re Application of :
Branimir L HORVAT :
Application No. 11/043,467 :
Filed: January 26, 2005 :
Attorney Docket No. HORVAT :
:

DECISION ON PETITION
TO MAKE SPECIAL UNDER
37 CFR 1.102(c)(2)

This is a decision on the petition under 37 CFR 1.102(c) (2)(ii), filed January 26, 2005, and resubmitted January 12, 2006, to make the above-identified application special based on the invention materially contributing to the development or conservation of energy resources as set forth in M.P.E.P. § 708.02, Section VI.

The petition is **DISMISSED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(ii) and MPEP § 708.02, Section VI: Energy, must state how the invention materially contributes to (A) the discovery or development of energy resources, or (B) the more efficient utilization and conservation of energy resources. If the disclosure is not clear on its face that the claimed invention materially contributes category (A) or (B), the petition must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the materiality standard is met. Examples of inventions in category (A) would be developments in fossil fuels (natural gas, coal, and petroleum), hydrogen fuel technologies, nuclear energy, solar energy, etc. Category (B) would include inventions relating to the reduction of energy consumption in combustion systems, industrial equipment, household appliances, etc. No fee is required.

The instant petition fails to provide any evidence of category (A) or (B).

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

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

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

By FAX: (571) 273-8300

Telephone inquiries concerning this decision should be directed to David Bucci at 571-272-7099.

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

The application is being forwarded to the Technology Center Art Unit 2836 for action in its regular turn.

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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DIW Feb-06

FRANK A. LUKASIK
1609 GOLDEN RIDGE DRIVE
THE VILLAGES FL 32162

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FEB 23 2006

OFFICE OF PETITIONS

In re Application of	:	
Horvat et al.	:	
Application No. 11/043,467	:	DECISION ON PETITION
Filed: 26 January, 2005	:	
Atty Docket No. HORVAT	:	

This is a decision on the paper styled as a petition under 37 CFR 1.183, filed on 26 January, 2005, requesting waiver of the rules, for the application to be accorded a filing date of 8 December, 2004, rather than the presently accorded filing date of 26 January, 2005.

The petition is **DISMISSED**.

In an extraordinary situation, when justice requires, any requirement of the regulations in this part which is not a requirement of the statutes may be suspended or waived by the Commissioner or the Commissioner's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. Any petition under this section must be accompanied by the petition fee set forth in § 1.17(h).

At the outset, it is noted that although petitioner states that "[t]he required Fee is attached," no petition fee has been located among the papers received with the petition on 26 January, 2005, and that no deposit account authorization has been provided. Patent and trademark fees and charges payable to the Patent and Trademark Office are required to be paid in advance, that is, at the time of requesting any action by the Office for which a fee or charge is payable.[1] As such, the petition fee is a prerequisite to the filing of the present petition, and the

[1] 37 CFR 1.22(a).

Office will not reach the merits of the petition unless and until the petition fee is submitted. Any request for reconsideration of this petition must be accompanied by the petition fee.

As the petition fee has not been paid, the petition will not be treated on the merits.

It is further noted that the address for filing papers with the USPTO may be found at 37 CFR 1.1.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/043,473	01/25/2005	Michael R. Myers	P24,451 J US2	7227

20802 7590 06/23/2008
SYNNESTVEDT LECHNER & WOODBRIDGE LLP
P O BOX 592
112 NASSAU STREET
PRINCETON, NJ 08542-0592

EXAMINER
WARD, PAUL V

ART UNIT	PAPER NUMBER
1624	

MAIL DATE	DELIVERY MODE
06/23/2008	PAPER

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

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

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SYNNESTVEDT & LECHNER LLP
1101 MARKET STREET; SUITE 2600
PHILADELPHIA, PA 19107-2950

JUN 2 3 2008

In re Application of :
Michael R. Myers et al. :
Serial No.: 11/043,473 : PETITION DECISION
Filed: January 25, 2005 :
Attorney Docket No.: P-24,451-J US2 :

This is in response to the petition under 37 CFR 1.181 (c), filed May 5, 2008, requesting withdrawal from issue.

A review of the file history shows that the examiner mailed a Notice of Allowance and Issue Fee Due and a Notice of Allowability to applicants on February 5, 2008, setting a three month statutory period for payment of the Issue Fee. The Notice of Allowability includes and Examiner's Amendment canceling claims 6-18 and amending claims 1 and 19. The Notice of Allowability includes the statement, "Authorization for this examiner's amendment was given in a telephone interview with Peter Mlymek (sic, Mlynek) on November 19, 2007." Petitioner states that the application needs to be withdrawn from issue because he did not agree to the amendments to claims 1 and 19 and wishes to have the examiner reopen prosecution so he can see the rejections of claims 1 and 19 said to have been obviated by the Examiner's Amendment.

It is not possible to accede to Petitioner's request. Examiner received approval for the Examiner's amendment from the attorney of record at the time and acted in good faith. The fact that applicant has had petitioner take over representation on this case does not confer the right to undo what has gone before. It is suggested that petitioner withdraw the case from issue in order to file a Request for Continued Examination and include an amendment to the claims to bring them to the form desired for further prosecution.

For the reasons set forth the petition is **DENIED**.

Should there be any questions about this decision please contact Robert A. Wax, by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0623 or by facsimile sent to the general Office facsimile number.

Irem Yucel
Director, Technology Center 1600

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FOX ROTHSCHILD LLP
P O BOX 592
112 NASSAU STREET
PRINCETON NJ 08542-0592

In re Application of	:	APR 2 2009
MYERS, MICHAEL R. et al.	:	
Application No.: 11/043,473	:	DECISION ON
Filing or 371(c) Date: January 25, 2005	:	PETITION
Attorney Docket Number: P24,451 J US2	:	

This is a decision in response to the "Petition to Withdraw Holding of Abandonment," filed September 16, 2008.

This petition is **GRANTED**.

The above-identified application became abandoned for failure to timely pay the required issue fee and publication fee, within the three-month period set in, the Notice of Allowance which was mailed February 5, 2008.

In view of the foregoing, the holding of abandonment are requested, is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this matter should be directed to the undersigned at (703) 308-9250 ext. 175.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management

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UNITED STATES DEPARTMENT OF COMMERCE
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,492	01/26/2005	2627	1050	1990.72324	12	21	3

CONFIRMATION NO. 8659

CORRECTED FILING RECEIPT

OC000000018478776

Patrick G. Burns, Esq.
GREER, BURNS & CRAIN, LTD.
Suite 2500
300 South Wacker Dr.
Chicago, IL 60606

Date Mailed: 04/06/2006

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)

Tatsuhiko Kosugi, Kawasaki, JAPAN;
Masahide Kanegae, Kawasaki, JAPAN;

Assignment For Published Patent Application

FUJITSU LIMITED

Power of Attorney: The patent practitioners associated with Customer Number **24978**.

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-301011 10/15/2004

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,492

Projected Publication Date: 04/20/2006

Non-Publication Request: No

Early Publication Request: No

Title

Information storage apparatus, and control method and program for the same

Preliminary Class

360

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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LICENSE FOR FOREIGN FILING UNDER
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Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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NOT GRANTED

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

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HOWSON & HOWSON LLP
501 OFFICE CENTER DRIVE
SUITE 210
FORT WASHINGTON, PA 19034

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SEP 23 2009

OFFICE OF PETITIONS

In re Patent of Caniggia et al.	:	
Patent No. 7,445,940	:	DECISION ON APPLICATION
Issue Date: November 4, 2008	:	FOR RECONSIDERATION OF
Application No. 11/043,493	:	PATENT TERM ADJUSTMENT
Filing Date: January 26, 2005	:	
Attorney Docket No. MTS30BUSA	:	

This is in response to the "Request for Reconsideration of Patent Term Adjustment Under 37 CFR §1.705(b)" filed December 16, 2008. Patentees request the determination of patent term adjustment indicated on the issue notification (and on the patent) be corrected from one hundred sixty (160) days to three hundred eighty-seven (387) days.

On July 7, 2009, patentees filed a request for the decision on this request for reconsideration to be held in abeyance until a final, non-appealable decision has been rendered on the merits of *Wyeth v. Dudas*, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008) currently on appeal to the United States Court of Appeals for the Federal Circuit. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance. Therefore, the Office will not hold the instant request for reconsideration in abeyance.

The request for reconsideration of the patent term adjustment indicated on the patent is **dismissed**.

The application was filed January 26, 2005.

On July 22, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 104 days.[1]

The application matured into United States Patent No. 7,445,940, with a revised patent term adjustment of 160 days on November 4, 2008. This request for reconsideration was timely filed within two months of the issue date of the patent.

[1] The total of 104 days was 227 days of Office delay reduced by 123 days of applicant delay. A request for reconsideration of this initial determination was not filed.

Patentees assert the correct patent term adjustment is 387 days.

Patentees contend the Office's delay in the issuance of the patent should have resulted in an increase of 283 days in the patent term adjustment, not 56 days, based on an assertion the number of days of overlap between the delay in the issuance of the patent and other types of Office delay is 0 days. However, The Office contends the proper amount of the overlap is 227 days.

The Office has described its position regarding the proper interpretation of 35 U.S.C. § 154(b)(2)(A) as follows:

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period which the application was pending before the Office (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment.[2]

The relevant time period when determining if periods of delay "overlap" is the time period from the filing date of the application, January 26, 2005, to the date of issuance of the patent, November 4, 2008.[3] In this case, 227 days of the period of delay of 283 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 179 days of delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(1) and the 48 days of delay attributable to grounds specified in 37 C.F.R. § 1.702(a)(2).

For the reasons previously discussed, the Office acted properly when it increased the patent term adjustment by 56 days (283 days of delay minus 227 days of overlap) as a result of the Office taking in excess of three years to issue the patent.

---

[2] *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004) (*quoting Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704, 21706 (April 22, 2004)). The Notice also provided a discussion of an example of the application of the overlap provision:

> A two month delay in issuing a first Office action (35 U.S.C. 154(b)(1)(A)(i)) and a two-month delay in issuing the patent (35 U.S.C. 154(b)(1)(B)) [are] considered overlapping delays, even though the two-month delay in issuing the first Office action occurred prior to three years (thirty-six months) after the application's filing date. This is because if the Office does not issue the patent until three years and two months (thirty-eight months) after its filing date, the relevant period in determining the Office delay in issuing the patent is not just the period between three years (thirty-six months) after the application's filing date and the date the patent issues (thirty-eight months after the application's filing date), but is the entire period between the application's filing date and the date the application issues.

[3] The instant case does not contain any time periods falling under 35 U.S.C. § 154(b)(1)(B)(i)-(iii).

The Office has considered patentees' arguments concerning the proper interpretation to be given to the overlap provision set forth in 35 U.S.C. § 154(b)(2)(A). However, the Office is not persuaded that the Office's current and long standing interpretation of the statute is incorrect.

The Office's interpretation of 35 U.S.C. § 154(b)(2)(A) is consistent with the purpose of the statute. The language in 35 U.S.C. § 154(b)(2)(A) is the result of the passage of the American Inventors Protection Act, Pub. L. No. 106-113, §§ 4401, 113 Stat. 1501, 1501A-552 (1999). A section-by-section analysis of the American Inventors Protection Act, published in the Congressional Record at the request of Senator Lott, elaborated this limitation:

> [T]otal adjustments granted for restorations under (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 * * * and administrative delay under section 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.[4]

In view of the previous discussion, the patent term adjustment set forth on the patent was correct. Therefore, the patent term adjustment on the patent will not be changed.

Submission of the $200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fee is required.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

[4] 145 Cong. Rec. S14,708, S14,718 (Nov. 17, 1999).

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REFLECTIVITY, INC.
350 POTRERO AVENUE
SUNNYVALE CA 94085

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APR 27 2006
OFFICE OF PETITIONS

In re Application of Terry Tarn Application No. 11/043,507 Filed: January 25, 2005 Attorney Docket No.: P208-US	:	DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 7, 2006, to revive the above-identified application.

This above-identified application became abandoned for failure to timely file a reply to an Restriction Requirement mailed August 4, 2005. The Office Action set a one (1) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 5, 2003. A Notice of Abandonment was mailed on March 29, 2006.

This petition is hereby **GRANTED**.

Petitioner has submitted $665.00 towards the petition fee. However, the current petition fee is $750.00. Pursuant to petitioner's request deposit account 50-1516 will be charged the $85.00 difference.

The Office hereby acknowledges the receipt of the Response to the Restriction and Election Requirement submitted with the instant petition.

This application is being forwarded to Technology Center 2800 for further processing.

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

Charlema R. Grant

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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OFFICE OF PETITIONS

HEWLETT PACKARD COMPANY
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INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

RECEIVED

CANCELLED

OFFICE OF PETITIONS

In re Application of :
Kettle et al. : LETTER DISMISSING PETITION
Application No. 11/043,511 :
Filed: 01/26/2005 :
Attorney Docket No. 200408205-1 :

This is a letter in reference to the petition under 37 CFR 1.137(b),[1] filed on 3 January, 2007, to revive the above-identified application.

The petition is **DISMISSED** for the reasons stated below.

This application became abandoned on 30 October, 2005, for failure to timely file a reply to the Notice Under 37 CFR 1.251, mailed on 29 July, 2005, which set a three (3) month shortened statutory period for reply. No extensions of the time for reply under 37 CFR 1.136(a) were obtained. Notice of Abandonment was mailed on 20 November, 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 application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

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

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

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

The petition, which contains an S-signature by registered patent attorney Michael Dryja, Reg. No. 39,662, cannot be considered on the merits because it is lacks the requisite fee. Although the petition paper authorizes all required fees to be charged to Deposit Account No. 08-2025, a review of Office financial records reveals that attorney Dryja is not an authorized user of this deposit account. As no signature by an authorized user is present, the deposit account cannot be charged.

The PTO will not reach the merits of any petition under 37 CFR 1.137 lacking the requisite petition fee.[2] Any petition filed must be accompanied by the fee required by law.

A reply to this communication should be submitted within ONE (1) MONTH of receipt of this communication.

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

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

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

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

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

---

[2] See Krahn v. Comm'r, 15 USPQ2d 1823, 1825 (E.D. Va. 1990).

UNITED STATES PATENT AND TRADEMARK OFFICE

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IRELL & MANELLA LLP
1800 AVENUE OF THE STARS
SUITE 900
LOS ANGELES, CA 90067

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OFFICE OF PETITIONS

In re Application of	:	
Arthur TOROSYAN	:	
Application No. 11/043,518	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 152392-0005	:	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 24, 2008.

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

A review of the file record indicates that the power of attorney to Irell & Manella LLP, has been revoked by the assignee of the patent application on December 1, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: PENTOMICS, INC.
422 SOUTH MARINO AVENUE
PASADENA, CA 91107

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: Henry Kim	: DECISION ON REQUEST FOR
Patent Number	: 7590879	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/043,524	: 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 **345** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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2611 Hidden Valley Road
La Jolla CA 92037

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OFFICE OF PETITIONS

In re Application of :
ATCRAVI, ITTY :
Application No. 11/043,535 :
Filed: 01/26/2005 :
Attorney Docket No. ATCRAVI :

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181, filed February 10, 2009, to withdraw the holding of abandonment in the above-identified application.

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

Any request for reconsideration of this decision on the petition under 37 CFR 1.181 must be submitted with TWO (2) MONTHS of the mailing date of the decision. The request for reconsideration should include a cover sheet entitled "Renewed Petition Under 37 CFR 1.181."

On September 15, 2008, the Office mailed a Notice of Allowance and Fee(s) Due, which set a three-month statutory period to pay the issue fee and the publication fee to avoid abandonment. In the absence of a timely and proper response, the application was held abandoned on December 16, 2008. A Notice of Abandonment was mailed on January 27, 2009.

On February 10, 2009, petitioner filed the present petition, accompanied by a copy of Express Mail Label No. EH000877623 and the front side of a check in the amount of $1,020.00. Petitioner explains:

> I mailed the Issue Fee Transmittal Form to the USPTO by Express Mail (label No. EH000877623) on December 15, 2008 along with a Change of Correspondence Address form and a check in the amount of $1,020. On December 30 I received a telephone message from Ollie Person saying "We have a copy of your Issue Transmittal Form and you do not have an account number" even though I had stated on the Issue Fee Transmittal Form that a check had been enclosed. However, because of the holidays I was unable to reach her until the following week. When I finally got to talk to her it was already too late to find my check. She asked me to fax her a copy of my check and I did this on January 7, 2009. Then I faxed her a credit card payment form on January 12. After that I was unable to reach her

> again for several days. When I was able to talk to her again she said that she had received my credit card payment form but I would have to talk to somebody else because she was no longer working on my case. Then I talked to Son Lam at the end of January and he told me to file this petition.

Petition, p.1.

The Office has considered petitioner's arguments, but does not find them persuasive. Unfortunately, the Office has no record of receiving the check in the amount of $1,020.00 with the Issue Fee Transmittal Form nor that the check was cashed by the USPTO.[1] Even if the Office had received the check in the amount of $1,020.00 filed December 15, 2008, this amount would have been insufficient to pay the complete issue fee and publication fee. That is, effective October 2, 2008, USPTO fees were revised, and the utility issue fee increased from $720.00 to $755.00. Any amount paid on or after October 2, 2008, was required to be paid as shown in the revised fee schedule. The public was apprised of the change in the fee amount, and the new fee schedule was available on the USPTO website. The Office reminds petitioner that the amount of a fee due is determined by the patent fees in effect on the date on which the fee is received in the USPTO. Therefore, on December 15, 2008, petitioner was required to pay the publication fee of $300.00 and the revised issue fee of $755.00 for a total amount of $1,055.00. Accordingly, petitioner's payment on December 15, 2008, would have been insufficient. Moreover, the Office notes that petitioner's subsequent payment by credit card is insufficient, leaving a balance due of $35.00 to complete the payment of the issue fee and publication fee.

While the Office attempts to notify an applicant of any fee deficiency in a manner permitting a timely correction, the Office is under no obligation to do such. 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). An applicant is ultimately responsible for ensuring that fees are paid in the proper amount. See 37 CFR 1.6 and MPEP 607. Moreover, it is an applicant's responsibility to take reasonable precautions by apprising himself of the correct fee amounts before payment to the USPTO.

The showing of record is that petitioner failed to timely submit the proper fee amount. Accordingly, the application was properly held abandoned and the petition to withdraw the holding of abandonment is **dismissed**.

Petitioner must submit the balance due of $35.00 with any petition to revive the application. Again, the Office reminds petitioner to apprise himself of any changes in the fee as the amount due is determined by the date of payment in the USPTO.

Petitioner may wish to submit a petition to revive the application under 37 CFR 1.137(b). A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The required reply to the outstanding Office action (i.e. the balance of the issue fee payment);

[1] If the check was cashed, petitioner should submit a copy of the cancelled check as proof of payment to the USPTO.

(2) The petition fee as set forth in 1.17(m) (current small entity amount of $810.00); and,

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional.

The appropriate form is enclosed 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
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.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64

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RUDEN, MCCLOSKY, SMITH, SCHUSTER & RUSSELL, P.A.
P.O. BOX 1900
FORT LAUDERDALE FL 33301

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MAR 10 2006

OFFICE OF PETITIONS

In re Application of	:	
Gonzalez et al.	:	DECISION ON PETITION
Application No. 11/043,548	:	TO WITHDRAW
Filed: January 26, 2005	:	FROM RECORD
Attorney Docket No. 49097-0007	:	

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, 2005.

The request is **NOT APPROVED**.

A review of the file record indicates that Stanley A. Kim, Ph.D. does not have power of attorney in this patent application. The correspondence address was given as Customer Number 20822, but the attorneys associated with the Customer Number were never given power of attorney. 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 current address of record until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at 571-272- 3206.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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EDUARD KOPYLOV
2335 SO. DAWSON WAY
AURORA CO 80014

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In re Patent No. 6,948,443	:	
Issue Date: September 27, 2005	:	
Application No. 11/043,557	:	ON PETITION
Filed: January 26, 2005	:	
	:	

This is a decision on the petition under 37 CFR 1.378(c), filed November 12, 2009, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on September 28, 2009 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

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

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

The patent file is being forwarded to Files Repository.

Terri Johnson
Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: —

DATE : 6/30/08

TO SPE OF : ART UNIT 2822

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/043577 Patent No: 7238580B2

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

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

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

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

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

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

Thank You For Your Assistance

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

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

Comments: _____

SPE — 2822 Art Unit

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Sunstein Kann Murphy & Timbers LLP
125 SUMMER STREET
BOSTON, MA 02110-1618

Mail Date: 04/26/2010

Applicant	: Changhan Yun	: DECISION ON REQUEST FOR
Patent Number	: 7608534	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/043,580	: 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 **294** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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FORT COLLINS, CO 80527-2400

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OFFICE OF PETITIONS

In re Application of	:	
Alejandro Manuel de Pena	:	
Application No. 11/043,587	:	DECISION
Filed: January 26, 2005	:	ON PETITION
Atty Docket No.:	:	
200300585179	:	

This is a decision on the petition under 37 CFR 1.137(a), filed December 27, 2005, to revive the above-identified application based upon unavoidable delay. The petition is properly treated as a petition to withdraw the abandonment of the application under 37 CFR 1.181.

The petition is **granted.**

Background

The above-identified application became abandoned for failure to timely and properly reply to the Notice to File Missing Parts of Nonprovisional Application ("Notice"), mailed March 7, 2005. The Notice required, inter alia, an oath or declaration and late filing fee oath or declaration surcharge, and an Abstract, and set a two (2) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No extensions of time having been obtained, this application became abandoned on May 8, 2005. A Notice of Abandonment was mailed on November 9, 2005.

The instant petition

Applicant responds with the instant petition wherein Applicant avers that a timely reply was filed on May 9, 2005, and was received by this Office as evidenced by Applicant's return-receipt postcard. In support of this assertion, Applicant provides a copy of a return-receipt postcard acknowledging

receipt of, *inter alia*, 3 page(s) Decl & Power; an abstract page, and a fee transmittal form.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 3 page(s) Decl & Power; an abstract page, and a fee transmittal form in the above-identified application by this Office on May 9, 2005.

"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.

Applicant has also complied with the Certificate of Mailing procedures in accordance with 37 CFR 1.8.

Accordingly, the petition is granted.

A refund of the petition fee has been credited to deposit account 08-2025, as authorized in the Transmittal Letter for Response/Amendment, filed May 9, 2005 (Certificate of Mailing dated May 6, 2005).

In view of the foregoing, the holding of abandonment is hereby withdrawn.

The application file is being referred to the Office of Initial Patent examination for continued processing in due course.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Merchant & Gould (Microsoft)
P.O. Box 2903
Minneapolis, MN 55402-0903

In re Application of Jeffrey B. Parham et al.
Appl. No.: 11/043,607
Filed: January 26, 2005
Attorney Docket No.: 14917.0581USC1; 150548.02
For: METHOD FOR DESIGNATING COMMUNICATION PATHS IN A NETWORK

DECISION ON PETITION UNDER 37 C.F.R. §1.59

This is a decision on the petition under 37 C.F.R. §1.59(b), filed December 11, 2007 to expunge information filed concurrently therewith from the above-identified application. A supplemental petition to expunge was filed on August 6, 2008. The application has been allowed and a Notice of Allowance and Fee(s) Due was mailed on May 7, 2008.

The petition is GRANTED.

Petitioner asserts that the information filed on December 11, 2007 in sealed envelope(s) as exhibit A, is proprietary and requests that it be expunged from the record.

The information in question has been determined by the undersigned to not be material to the examination of the instant application and may be expunged. The expunged material, listed as an Artifact in the Image File Wrapper, has been removed from the official file and is being returned with this decision. Note that this material is still listed as an Artifact in the Contents of the Image File Wrapper.

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

Any inquiry regarding this decision should be directed to Chau Nguyen, Supervisory Patent Examiner, at (571) 272-2208.

Valencia Martin-Wallace

Valencia Martin-Wallace, TC Director
Technology Center 2400
Networks, Multiplexing, Cable and Security

Enclosure: Proprietary Material submitted December 11, 2007

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LAUSON & SCHEWE LLP
1600 ROSECRANS AVENUE 4TH FLOOR
FOURTH FLOOR
MANHATTAN BEACH CA 90266

In re Application of FRISINA, SONYA FRISINA AKA SONYA OOTEN Appl. No.: 11/043,616 Filed: January 26, 2005 For: METAL CROCHET JEWELRY	**DECISION ON PETITION UNDER 37 CFR 1.59**

This is a decision on the petition under 37 CFR 1.59(b), filed March 24, 2008 to expunge information from the above identified application.

The petition is granted.

Petitioner requests that a response was filed on Feb. 5, 2008 which contains two extra pages after the signature page 7. In particular, the extra pages after the signature page 7 were unintentionally submitted and bear no relevance to the response to the restriction requirement of Jan. 2, 2008. Petitioner requests that these two extra pages be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

The information in question has been determined by the undersigned to not be material to the examination of the instant application. Applicant is required to retain the expunged material(s) for the life of any patent that issues on the above-identified application.

The expunged material has been removed from the PAIR system. The extra two pages after page 7 of the response filed on Feb. 5, 2008 will not be available to view in the IFW files of this application and papers will not be returned to applicant.

Any questions regarding this petition decision should be directed to Henry C. Yuen, Technology Center Special Programs Examiner at 571 – 272-4856.

Frederick R. Schmidt, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Bryant R. Gold
Laura Haburay Bishop
25129 Rye Canyon Loop
Valencia, CA 91355

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OFFICE OF PETITIONS

In re Application of	:	
Jordi Parramon, et al.	:	
Application No. 11/043,642	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 585-0031US7/05-00435-10	:	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, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Bryant R. Gold and Laura Haburay Bishop has been revoked by the assignee of the patent application on May 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 Terri Williams at 571-272-2991.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Wong, Cabello, Lutsch, Rutherfor**
& Brucculer L.L.P.
20333 SH 249
Houston, TX 77070

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OFFICE OF PETITIONS

EDWARDS & ANGELL, LLP
P.O. BOX 55874
BOSTON, MA 02205

In re Application of :
Zolotukhin, et al. :
Application No.: 11/043,658 : ON PETITION
Filed: January 26, 2005 :
Attorney Docket No.: 60591(49163) :

This is a decision on the petition filed May 10, 2005, requesting the acceptance of Figures 4, 7, 8, and 9 as part of the original disclosure. The petition will be treated under 37 CFR 1.182.

The petition is **dismissed, in part**.

The application was filed on January 26, 2005. On April 25, 2005, the Initial Patent Examination Division mailed the Notice stating, in pertinent part, that the application had been accorded a filing date of January 26, 2005, but that Figures 4, 7, 8, and 9, as described in the specification, appeared to have been omitted. Relative to the alleged omitted figures, the Notice allowed a non-extendable period for reply of two months from its mailing date.

The present petition was filed on May 10, 2005, responsively. Petitioner therein argued that Figures 4, 7, 8, and 9 accompanied the original application papers. In support, a copy of the omitted figures and a copy of the Office date-stamped postcard acknowledging receipt of 11 sheets of drawings, among other items.

The arguments have been considered, but are 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 reveals that 11 sheets of drawings were filed on January 26, 2005, but that there were no figures labeled "4, 7, and 8" among those drawings. A figure labeled "Figure 9" was found among the drawings filed January 26, 2005. It is further noted that the figures filed with the petition do not include a "Figure 4", "Figure 7", or a "Figure 8", although they do include Figures 4A, 4B, 7A, 7B, 7C, 8A, and 8B. Absent evidence to the contrary, it is concluded that the Notice of April 25, 2005, correctly indicated that Figures 4, 7, and 8, as described in the specification, were omitted. As to the omitted figures, petitioner will need to amend the specification to remove references to Figures 4, 7, and 8. This should be done by preliminary amendment prior to the first action on the merits to avoid undue delay in processing the application.

As noted previously, Figure 9 was found among the drawings filed January 26, 2005. The language in the Notice relative to Figure 9 is vacated, accordingly.

Petitioner is advised that the fee for the instant petition is $400.00. See 37 CFR 1.182. See also 37 CFR 1.17(f). Deposit account 04-1105 will be charged $400.00, accordingly.

The application is being directed to the Office of Initial Patent Examination for further processing and consideration of the other documents filed in response to the "Notice to File Missing Parts of Nonprovisional Application." The Office of Initial Patent Examination should note that Figure 9 was present on filing and is to be included as part of the original disclosure.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

GREENBERG TRAURIG LLP
2450 COLORADO AVENUE, SUITE 400E
SANTA MONICA CA 90404

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SEP 01 2005

OFFICE OF PETITIONS

In re Application of :
Peter M. Hafermann et al. :
Application No. 11/043,664 :
Filed: January 25, 2005 :
Attorney Docket No.: 58598-010101 :
Title: POWDER PROCESSING :

DECISION ON PETITIONS UNDER 37 C.F.R. §1.10(c) and 1.182

This is a decision on the petition filed August 15, 2005, requesting that the above-identified application, including Figures 1 and 2, be accorded a filing date of January 25, 2005 as part of the original disclosure.

The petition under 37 C.F.R. §1.10(c):

The application was deposited on January 25, 2005. Shortly thereafter, the Office mailed a filing receipt, indicating that application number 11/043,664 had been accorded a filing date of January 26, 2005.

With the instant petition, Petitioner has included a copy of the Express Mail label number EV394934784US[1].

Petitioner has alleged that the application was deposited on January 25, 2005, and the Patent Office has incorrectly assigned a filing date of January 26, 2005 to the instant application. Petitioner has included a copy of the Express Mail label, and it is noted that it bears a "date-in" of January 25, 2005.

A check of the Office's USPS Express Mail Finder Database computer program was inconclusive. A check of the United States Postal Service's website

1 The Utility Patent Application Transmittal sheet has been located in the electronic file, and it is noted that it contains this same Express Mail label number.

Copied from 10043664 on 09/19/2005

(http://www.usps.com/shipping/trackandconfirm.htm) was equally inconclusive.

Although the application received a filing date of January 26, 2005, the evidence is convincing that the application papers were filed on January 25, 2005, and the Patent Office assigned the incorrect date to the application. Therefore, the application was entitled to a filing date of January 25, 2005.

Accordingly, the petition under 37 C.F.R. §1.10(c) is **GRANTED**.

The petition under 37 C.F.R. §1.182:

The application was deposited on January 25, 2005. However, on June 20, 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 a filing date would be accorded upon the deposit of drawings. The notice set a two-month period of reply.

In response, on August 15, 2005, applicants filed the present petition. The petition is further accompanied by a copy of Figures 1 and 2, along with a copy of applicants' postcard receipt acknowledging receipt of "2 sheets of previously filed FORMAL drawings (A4 paper; Figs. 1-2)" in the United States Patent and Trademark Office (Office) on January 26, 2005 (per the petition above). Applicants request that Figures 1 and 2 be accorded a filing date of January 25, 2005.

Upon review of the electronic file, the above-mentioned pages have has not been located among the application papers. However, the evidence is convincing that the application papers deposited on January 25, 2005 included Figures 1 and 2, and these sheets were subsequently misplaced in the Office.

Therefore, the application, including Figures 1 and 2, was complete on filing and entitled to a filing date of January 25, 2005 as part of the original disclosure.

Accordingly, the petition under 37 C.F.R. §1.182 is **GRANTED**.

The notice mailed June 20, 2005 was sent in error, and is hereby **VACATED**. Therefore, no petition fee is necessary, and the petition fee has not been charged to Petitioner's Deposit Account.

OIPE will be advised to process the application with a filing date of January 25, 2005, using the original application papers filed on that date, as well as Figures 1 and 2 submitted on August 15, 2005, and for noting in Office records that these pages were present on filing.

Copied from 10043664 on 09/19/2005

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

Copied from 10043664 on 09/19/2005

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Roberts Abokhair & Mardula
Suite 1000
11800 Sunrise Valley Drive
Reston, VA 20191

COPY MAILED

JUL 31 2006

OFFICE OF PETITIONS

In re Application of	:	
John M. Cooney et al.	:	
Application No. 11/043,680	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 2870-003	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 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 Jon L. Roberts 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 of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is no outstanding Office action at this time.

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

David Bucci
Petitions Examiner
Office of Petitions

cc: John M. Cooney
393 Winding Way
San Carlos, CA 94070

cc: Paul Arena
i2 Telecom International, Inc.
1200 Abernathy Road, Suite 1800
Atlanta, GA 30328

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/043,680	01/26/2005	John M. Cooney	2870-003

CONFIRMATION NO. 5022

OC000000019746139

OC000000019746139

22208
ROBERTS ABOKHAIR & MARDULA
SUITE 1000
11800 SUNRISE VALLEY DRIVE
RESTON, VA 20191

Date Mailed: 07/25/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 12/16/2005.

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

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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TOLER SCHAFFER LLP
8500 BLUFFSTONE COVE
SUITE A201
AUSTIN TX 78759

COPY MAILED

NOV 29 2007

OFFICE OF PETITIONS

In re Application of	:	
Cooney, et al.	:	
Application No. 11/043,680	:	ON PETITION
Filed: January 26, 2005	:	
Attorney Docket No. 1970-0003	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

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

The above-identified application became abandoned for failure to timely file a response to the non-final Office action mailed November 20, 2006. This Office action set a shortened statutory period for reply of three (3) months. No reply having been received, the application became abandoned on February 21, 2007. The Office mailed a Notice of Abandonment on June 6, 2007.

With the instant petition, applicants paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of an Amendment.

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

The matter is being forwarded to Group Art Unit 2145 for consideration of the Amendment filed August 6, 2007.

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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AUG 0 7 2009

OFFICE OF PETITIONS

In re Application of	:	
James E. Pitkow et al.	:	
Application No. 11/043,682	:	DECISION ON PETITION
Filed: March 14, 2008	:	TO WITHDRAW
Attorney Docket No. MSOLP008	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed June 4, 2009.

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

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 20350 has been revoked by the assignee of the patent application on June 1, 2009. 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.

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272- 4584.

JoAnne Burke
Petitions Examiner
Office of Petitions

cc: HOLLAND & HART, LLP
P.O BOX 8749
DENVER CO 80201

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/043,682	01/25/2005	James E. Pitkow	026970-007700US

CONFIRMATION NO. 5025

POA ACCEPTANCE LETTER

26582
HOLLAND & HART, LLP
P.O BOX 8749
DENVER, CO 80201

OC000000037218447

Date Mailed: 08/04/2009

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2009.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

/jlburke/

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

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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/043,682	01/25/2005	James E. Pitkow	026970-007700US

CONFIRMATION NO. 5025

POWER OF ATTORNEY NOTICE

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

OC000000037218420

Date Mailed: 08/04/2009

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 06/01/2009.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).

/jlburke/

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

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WILSON, SONSINI, GOODRICH & ROSATI
650 PAGE MILL ROAD
PALO ALTO CA 94304-1050

In re Application of	:	
Vernon A. NORVIEL	:	
Application No. 11/043,689	:	DECISION ON PETITION
Filed: January 24, 2005	:	
Attorney Docket No. **29184-015.201**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 02, 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 Office Action, mailed April 29, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 30, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/610,592.

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 November 02, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

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

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

Applicant	: Chang Rok Moon	: DECISION ON REQUEST FOR
Patent Number	: 7572571	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/043,702	: OF WYETH
Filed	: 01/26/2005	:
		:

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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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 05/18/2010

Applicant : Chang Rok Moon
Patent Number : 7572571
Issue Date : 08/11/2009
Application No : 11/043,702
Filed : 01/26/2005

: 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 **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** 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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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

In re Application of	:	
Rudiger EIERMANN et al.	:	DECISION ON PETITION
Application No. 11/043,715	:	UNDER 37 CFR 1.78(a)(3)
Filed: January 26, 2005	:	
Attorney Docket No. 2002P00907WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/08007, filed July 22, 2003, set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/008007).

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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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
11/043,715	01/26/2005	1746	1000	2002P00907WOUS		8	2

CONFIRMATION NO. 7875

CORRECTED FILING RECEIPT

OC000000021267152

000046726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 11/16/2006

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

Applicant(s)

Rudiger Eiermann, Syrgenstein, GERMANY;
Helmut Jerg, Giengen, GERMANY;
Reinhard Kimmich, Allensbach, 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/EP03/08007 07/22/2003

Foreign Applications

GERMANY 10237854.1 08/19/2002

If Required, Foreign Filing License Granted: 03/05/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,715

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for operating a water-containing appliance and water-containing appliance

Preliminary Class

134

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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Alexandria, VA 22313-1450
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SEP 02 2008

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614

In re Application of	:
Dohrmann	: DECISION ON PETITION
Application No. 11/043,723	:
Filed: January 25, 2005	:
Dkt. No.: LSHIE 001A	:

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 15, 2008.

The Notice of Abandonment, mailed February 14, 2008, indicates that the application is abandoned for failure to timely submit a proper reply to the non-final Office action mailed August 8, 2007. The non-final Office action set a three month shortened statutory period of time for reply.

Petitioners assert that a response to the non-final Office action, including three month extension of time, was timely filed electronically on February 7, 2008. Petitioners have included a copy of the reply as well as a copy of an acknowledgement receipt to establish the timely submission of the reply to the non-final Office action.

The original reply referenced by petitioners has been located in the application file.

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

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

The application file is being forwarded to Technology Center 2800 for further processing.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

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2040 MAIN STREET
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IRVINE CA 92614

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In re Application of	:
Anthony R. Dohrmann	:
Application No. 11/043723	: DECISION ON PETITIONS
Filed: 01/25/2005	: UNDER 37 CFR 1.78(a)(3) AND (a)(6)
Attorney Docket No. LSHIE.001A	:

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed on October 7, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The 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.

Additionally, the instant nonprovisional application must be pending at the time of filing of the reference to the prior-filed provisional application as required by 37 CFR 1.78(a)(5)(ii). Further, the nonprovisional application claiming the benefit of the prior-filed provisional application must have been filed within twelve months of the filing date of the prior-filed provisional application.

All 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.

Any questions concerning this matter may be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2876 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.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT : Corrected Filing Receipt

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

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/043,723	01/25/2005	2876	1850	LSHIE.001A	20	1

CONFIRMATION NO. 7706

CORRECTED FILING RECEIPT

20995
KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

OC000000032880918

Date Mailed: 11/12/2008

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)
Anthony R. Dohrmann, Carlsbad, CA;

Assignment For Published Patent Application
Laser Shield Systems, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 20995

Domestic Priority data as claimed by applicant
This application is a CON of PCT/US2003/023679 07/28/2003
which claims benefit of 60/398,792 07/29/2002

Foreign Applications

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

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/043,723**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Apparatus, system, and method for alarm systems

Preliminary Class

235

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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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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PATENT COUNSEL, M/S 2061
APPLIED MATERIALS, INC.
LEGAL AFFAIRS DEPARTMENT
P.O. BOX 450A
SANTA CLARA, CA 95052

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OFFICE OF PETITIONS

In re Application of
Soovo Sen, et al.
Application No. 11/043,724
Filed: January 26, 2005
Attorney Docket No. A8511/T55310US

ON PETITION

This is a decision in response to the petition, filed February 7, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for a failure to reply in a timely manner to a non-final Office action mailed July 2, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on October 3, 2007. A Notice of Abandonment was mailed on January 24, 2008. In response, on February 7, 2008, the present petition was filed.

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

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.

The application is being referred to Technology Center AU 1792 for appropriate action by the Examiner in the normal course of business on the amendment filed February 7, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: KENT J. TOBIN
2 EMBARCADERO CENTER, 8TH FLOOR
SAN FRANCISCO, CA 94111

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8009 34th Avenue South
Minneapolis MN 55425

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OFFICE OF PETITIONS

In re Application of	:	
Sahinoja et al.	:	
Application No. 11/043,730	:	DECISION ON PETITION
Filed: January 26, 2005	:	
Attorney Docket No. KOLS.095PA	:	

This is a decision on the petition under 37 CFR under 1.181, filed November 17 2005, requesting that the Office withdraw the holding of abandonment of the above-identified application. The petition was recently forwarded to the Office of Petitions for a decision on the merits. The Office apologizes for any inconvenience.

This application was held abandoned for failure to respond in a timely manner to the Notice to File Missing Parts in Nonprovisional Application mailed on March 7, 2005. A Notice of Abandonment was mailed on November 8, 2005. Petitioner asserts that petitioner submitted a timely and proper response in the form of an extension of time for response within the second month, a surcharge, and an executed declaration with a certificate of mailing dated May 13, 2005.

Upon a review of the record, it appears that the application number in the heading of the response identified application No. "10/043,730" rather than the intended application No. "11/043,730." The response was located in the file of application No. 10/043,730. A review of the correspondence indicates that the USPTO received the response on May 16, 2005 (certificate of mailing dated May 13, 2005), but it was not matched with the file due to the incorrect application number.

Under current Office procedure, a response that has an incorrect application number is handled in accordance with MPEP Section 502. If a paper having an incorrect application number contains sufficient information to identify the correct application and was timely received at the Office, the holding of abandonment will be withdrawn. In reviewing the papers, it is concluded that there was sufficient information thereon to associate the papers with the present application file.

For the reasons stated above, the petition is **granted**. The Notice of Abandonment is hereby withdrawn. The application is returned to pending status in light of the timely filing of the response to the Notice to File Missing Parts on May 13, 2005.

The finance records indicate that the $120.00 extension of time fee and the $130.00 surcharge were paid in application No. 10/043,730. The Office will transfer these amounts to indicate their payment in application No. 11/043,730.

The matter is being referred to the Office of Initial Patent Examination for further processing.

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

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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T/BD ASSOCIATES, INC.
1225 WOODS ROAD
SOUTHAMPTON PA 18966

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OFFICE OF PETITIONS

In re Application of :
Quinlan K. Eddy :
Application Number: 11/043771 :
Filing Date: 01/26/2005 :
Attorney Docket Number: STA101 :

ON PETITION

This is a decision on the "PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR 1.181(a) and MPEP 711.03(c)," filed on November 17, 2008.

The petition is **dismissed**.

This application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on July 15, 2008, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on November 7, 2008.

Petitioner asserts that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was never received. In support of that allegation, petitioners have submitted a copy of a docket record and have provided a statement by registered patent practitioner Michael Plotnick, stating that a search of the file jacket and docket records was undertaken and indicates that the Office communication was never received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed is referenced in the practitioner's statement.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on July 15, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was not in fact received.

MPEP 711.03(c) states, in pertinent part:

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.**
>
> (emphasis added)

Petitioner has not provided a copy of the master docket for the firm, nor stated whether the docket record provided is a master docket.

In accordance with MPEP 711.03(c), a copy of the practitioner's record(s) required to show non-receipt of the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 should include the master docket for the firm. That is, if a three (3) month period for reply was set in the nonreceived Notice of Allowance and Fee(s) Due mailed on July 15, 2008, a copy of the master docket report showing all replies docketed for a date three (3) months from the mail date of the nonreceived Notice of Allowance and Fee(s) Due mailed on July 15, 2008 must be submitted as documentary proof of nonreceipt of the Notice of Allowance and Fee(s) Due mailed on July 15, 2008. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.

Accordingly, the petition is dismissed, but such dismissal is without predjudice to reconsideration pending submission of the information requested above.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. **This time period is not extendable.**[1]

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

[1] 37 CFR 1.181(f).

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.

DIWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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T/BD ASSOCIATES, INC.
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SOUTHAMPTON PA 18966

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OFFICE OF PETITIONS

In re Application of :
Quinlan K. Eddy :
Application Number: 11/043771 :
Filing Date: 01/26/2005 :
Attorney Docket Number: STA101 :

ON PETITION

This is a decision on the "SECOND PETITION TO WITHDRAW HOLDING OF ABANDONMENT PURSUANT TO 37 CFR 1.181(a) and MPEP 711.03(c)," filed on January 6, 2009.

The petition is **GRANTED**.

This application was held abandoned for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on July 15, 2008, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on November 7, 2008.

Petitioner asserts that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was never received. In support of that allegation, petitioners have submitted a copy of a docket record and have provided a statement by registered patent practitioner Michael Plotnick, stating that a search of the file jacket and docket records was undertaken and indicates that the Office communication was never received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed is referenced in the practitioner's statement.

The present renewed petition explains petitioner's docketing system. The practitioner states that no master docket is used.

A review of the record indicates no irregularity in the mailing of the Notice of Allowance and Fee(s) Due mailed on July 15, 2008, and in the absence of any irregularity in the mailing, there is a strong presumption that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was properly mailed to the address of record. This presumption may be overcome by a showing

that the Notice of Allowance and Fee(s) Due mailed on July 15, 2008 was not in fact received.

Accordingly, there was no abandonment in fact. The Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is **GRANTED.**

The application is being referred to the Technology Center technical support staff for remailing of the Notice of Allowance and Fee(s) Due mailed on July 15, 2008. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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FISH & RICHARDSON, PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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JUL 19 2007

OFFICE OF PETITIONS

In re Application of	:	
Mark B. Rosenbluth et al	:	
Application No. 11/043,782	:	DECISION DISMISSING PETITION
Filed: January 25, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 10559/692002/P13301C	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 16, 2007, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition did not reach the deciding official's office until 17:53:58 on July 16, 2007, which was too late for the deciding official's office to take action thereon. Therefore, this application matured into Patent No. 7,246,197 on July 17, 2007. Petitioner should ensure that any petition to withdraw from issue is filed within sufficient time to effect the withdrawal of the application from issue.

Petitioner's attention is directed to 37 CFR 1.313(d), which states:

> A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

The request for continued examination (RCE) filed concurrently with the petition is now improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the $790 filing fee and the $130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement of record in the file of the above-identified application will not be considered. *See* 37 CFR 1.97(i).

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

Frances Hicks
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
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KLARQUIST SPARKMAN, LLP
121 SE SALMON STREET
SUITE 1600
PORTLAND, OR 97204

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AUG 01 2006

OFFICE OF PETITIONS

In re Application of	:	
Lippincott, Louis A.	:	
Application No. 11/043,791	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 7224-70009-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 19, 2006.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Klarquist Sparkman, LLP has been revoked by the applicant of the patent application on June 6, 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.

Denise Pothier
Petitions Examiner
Office of Petitions

cc: EDWIN D. SCHINDLER
FIVE HIRSCH AVENUE
P.O. BOX 966
CORAM NY 11727-0966

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AUG 15 2007

STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

In re Application of	:
Dvar Dahary et al	:
Serial No.: 11/043,806	: PETITION DECISION
Filed: January 27, 2005	:
Attorney Docket No.: 1847.1003	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed June 6, 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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CAHILL, VON HELLENS & GLAZER P.L.C.
155 Park One
2141 East Highland Avenue
Phoenix AZ 85016

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AUG 23 2005

OFFICE OF PETITIONS

In re Application of	:	
Bruce Bence, Donald Burris, Brian Kisling,	:	DECISION GRANTING STATUS
John Kooiman, William Lutz, Willam McDade,	:	UNDER 37 CFR 1.47(a)
Thomas Miller and Lee Yung Chuan	:	
Application No.11/043,844	:	
Filed: January 25, 2005	:	
Attorney Docket Number: 5488-A-35	:	
Title of Invention: Electrical Connector With Grounding Member	:	

This is in response to the petition under 37 CFR 1.47(a), filed August 1, 2005.

The petition is GRANTED.

Petitioner has shown that the non-signing inventor Kooiman has refused to join in the filing of the above-identified application after having been presented with the application papers. The petition attest a copy of the application papers was sent to non-signing inventor's last known address. The non-signing inventor refused the application papers. Further inventor Kooiman orally refused to execute the application papers.

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

The address of the non-signing inventor provided on the declaration differs from the address provided in the petition. Petitioner is required to submit the address where non-signing inventor receives mail via a declaration or an application data sheet.

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

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

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3215.

Charlema R. Grant
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

John A. Kooiman
3807 E. Contessa Street
Mesa, Arizonia 85205-6924

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AUG 2 3 2005

OFFICE OF PETITIONS

In re Application of
Bruce Bence, Donald Burris, Brian Kisling,
John Kooiman, William Lutz, Willam McDade,
Thomas Miller and Lee Yung Chuan
Application No.11/043,844
Filed: January 25, 2005
Attorney Docket Number: 5488-A-35
Title of Invention: Electrical Connector With
Grounding Member

: LETTER

Dear Mr. Kooiman:

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

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

Telephone inquiries regarding this communication should be directed to Petitions Attorney Charlema R. Grant at (571) 272-3215. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Charlema R. Grant
Petitions Attorney
Office of Petitions

Joseph M. Homa
CAHILL, VON HELLENS & GLAZER P.L.C.
155 Park One
2141 East Highland Avenue
Phoenix AZ 85016

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www.uspto.gov

Paper No. None

Martin MOYNIHAN
c/o ANTHONY CASTORINA
SUITE 207
2001 JEFFERSON DAVIS HIGHWAY
ARLINGTON VA 22202

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NOV 1 0 2005

OFFICE OF PETITIONS

In re Application of	:	
Alex Diber et al.	:	
Application No. 11/043,860	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 C.F.R. §1.47(a)
Attorney Docket Number: 28484	:	
Title: METHODS AND SYSTEMS FOR	:	
ANNOTATING BIOMOLECULAR	:	
SEQUENCES	:	

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

On January 27, 2005, the application was deposited, identifying a plurality of joint inventors. The declaration which was included on filing was not executed by any of them. On May 25, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along with a new compact disc and a sequence listing,. This Notice set a two-month period for reply.

[1]A grantable petition under 37 C.F.R. §1.47(a) requires:

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

With this petition, Petitioner has included the surcharge associated with the late submission of an oath or declaration, the petition fee, and a three-month extension of time to make timely this response. Petitioner has further included a declaration which has been executed by each of the joint inventors save Liat Mintz and Alon Wasserman.

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

The petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 27 2006

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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MARTIN D. MOYNIHAN
PRTSI, INC.
P.O. BOX 16446
ARLINGTON VA 22215

In re Application of	:
Alex Diber et al	:
Serial No.: 11/043,860	: PETITION DECISION
Filed: January 27, 2005	:
Attorney Docket No.: 28484	:

This is a decision on the PETITION FOR ACCEPTANCE OF COLOR DRAWINGS UNDER 37 CFR 1.84(a)(2). The petition was filed May 8, 2006. Entry of color drawings requires: 1) three sets of the color drawings, 2) a proper amendment to the specification indicating color photographs or drawings are present in the file, and 3) the required fee under 37 CFR 1.17(h).

A review of the application record indicates that the petition meets all of the requirements for acceptance of color drawings. This is not to be construed that all of the drawings are accepted, only that the color drawings are acceptable. The required amendment to the specification should not be placed in the body of the petition and applicants are requested to provide a separate amendment to the specification in the next communication with the Office.

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.

George Elliott
Director, Technology Center 1600

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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

MAILED

SEP 25 2009

OFFICE OF PETITIONS

In re Application of	:	
Alex DIBER, et *al.*	:	
Application No. 11/043,860	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **28484**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 6, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

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

The application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed May 7, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 8, 2008.

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

The instant petition lacks item 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.

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

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

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

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

Telephone inquiries concerning this decision should be directed to 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
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MARTIN D. MOYNIHAN d/b/a PRTSI, INC.
P.O. BOX 16446
ARLINGTON, VA 22215

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OFFICE OF PETITIONS

In re Application of	:	
Alex DIBER, et *al.*	:	
Application No. 11/043,860	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. **28484**	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed October 6, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Notice to Comply with Requirements for Patent Applications Containing Nucleotide Sequence and/or Amino Acid Sequence Disclosures (Notice), mailed May 7, 2008. The Notice set a period for reply of two (2) months from the mail date of the Notice. A two (2) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 8, 2008.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center 1654 for appropriate action by the Examiner in the normal course of business on the reply received

Brian W. Brown
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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Renner, Otto, Boisselle & Sklar, LLP (Raytheon)
1621 Euclid Avenue - 19th Floor
Cleveland, OH 44115

Mail Date: 04/21/2010

Applicant	: John C. Parine	: DECISION ON REQUEST FOR
Patent Number	: 7642492	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/043,870	: 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 **924** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MORGAN, LEWIS & BOCKIUS, LLP
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO, CA 94105

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JUL 17 2007

OFFICE OF PETITIONS

In re Application of :
Erwin R. Stedronsky :
Application No. 11/043,871 :
Filed: January 25, 2005 :
Attorney Docket No. 67504-5014-US04 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(a), filed July 13, 2007, to withdraw the above-identified application from issue.

The petition is **DISMISSED**.

Petitioner requests that the present application be withdrawn from issue for consideration of an IDS filed of even date.

37 CFR 1.313(a) states, in part:

> Applications may be withdrawn from issue for further action at the initiative of the Office or upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application is necessary.

As such, a grantable petition requesting withdrawal of an application from issue must be accompanied by: (1) a showing of good and sufficient reasons why withdrawal of the application from issue is necessary; and (2) the requisite petition fee under 37 CFR 1.17(h). The petition fee of $130 has been charged to petitioner's deposit account.

However, the petition does not set forth good and sufficient reasons as to why withdrawal of the application is necessary. The mere submission of an IDS with the petition does not make withdrawal of the application from issue necessary as the IDS can be considered without withdrawing the application from issue. Further, there are other avenues open to applicant to have an IDS considered other than by way of petition.

Following the part of 37 CFR 1.313(a) cited above, 37 CFR 1.313(a) goes on to state:

> A petition under this section is not required if a request for continued examination under § 1.114 is filed prior to payment of the issue fee.

The filing of a request for continued examination (RCE) under 37 CFR 1.114 with a submission and the fee set forth in 37 CFR 1.17(e) would have been a proper available option to have the IDS considered. It is well documented that an IDS satisfies the submission requirement under 37 CFR 1.114. *See* MPEP 706.07(h)(II).

For the above reasons, this application will not be withdrawn from issue under the provisions of 37 CFR 1.313(a).

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

This matter is being referred to Technology Center AU 1714 for appropriate action on the IDS filed July 13, 2007.

Frances Hicks
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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TRELLIS INTELLECTUAL PROPERTY LAW GROUP, PC
1900 EMBARCADERO ROAD
SUITE 109
PALO ALTO CA 94303

MAILED

MAY 05 2009

OFFICE OF PETITIONS

In re Application of
GHAFFARI, Bahareh
Application No. 11/043,877
Filed: January 25, 2005
Attorney Docket No. **100112-001410US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 12, 2008 and resubmitted on January 28, 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 Charles Kulas on behalf of all attorneys of record who are associated with customer No. 37490. All attorneys/agents associated with the Customer Number 37490 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed April 06, 2009 that requires a reply from the applicant.

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BAHAREH GHAFFARI**
4437 RUSTIC TRAIL
BOULDER CO 80301

cc: **COPAN SYSTEMS INC.**
1900 PIKE ROAD, UNIT A
LONGMONT CO 80501

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/043,889	01/25/2005	1645	2500	MPI02-095DV1OMNIM	35	20	2

CONFIRMATION NO. 9951

UPDATED FILING RECEIPT

OC000000017172256

30405
MILLENNIUM PHARMACEUTICALS, INC.
40 Landsdowne Street
CAMBRIDGE, MA 02139

Date Mailed: 10/04/2005

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

Applicant(s)

Rory A.J. Curtis, Framingham, MA;
Maria Alexandra Glucksmann, Lexington, MA;
Rachel E. Meyers, Newton, MA;

Assignment For Published Patent Application

Millennium Pharmaceuticals, Inc.

Power of Attorney: The patent practitioners associated with Customer Number **30405**.

Domestic Priority data as claimed by applicant

This application is a DIV of 10/154,419 05/22/2002
which is a CIP of 09/858,194 05/14/2001 ABN
which claims benefit of 60/204,211 05/12/2000
and said 10/154,419 05/22/2002
is a CIP of 09/895,811 06/29/2001 ABN
which claims benefit of 60/215,376 06/29/2000
and said 10/154,419 05/22/2002
is a CIP of 09/919,781 07/31/2001 ABN
which claims benefit of 60/221,769 07/31/2000
and said 10/154,419 05/22/2002
is a CIP of 09/957,664 09/19/2001 ABN
which claims benefit of 60/233,790 09/19/2000
and said 10/154,419 05/22/2002
is a CIP of 09/964,295 09/25/2001 ABN
which claims benefit of 60/235,107 09/25/2000
and said 10/154,419 05/22/2002
is a CIP of 09/972,724 10/05/2001 ABN

which claims benefit of 60/238,336 10/05/2000
and said 10/154,419 05/22/2002
is a CIP of 10/002,769 11/14/2001 ABN
which claims benefit of 60/248,364 11/14/2000
and claims benefit of 60/248,878 11/15/2000
and said 10/154,419 05/22/2002
is a CIP of 10/024,623 12/17/2001 ABN
which claims benefit of 60/256,240 12/15/2000
and claims benefit of 60/256,588 12/18/2000
and claims benefit of 60/258,028 12/21/2000
and said 10/154,419 05/22/2002
is a CIP of 10/055,025 01/22/2002 ABN
which claims benefit of 60/263,169 01/22/2001
and said 10/154,419 05/22/2002
claims benefit of 60/324,016 09/20/2001

Foreign Applications

If Required, Foreign Filing License Granted: 05/24/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/043,889

Projected Publication Date: 01/12/2006

Non-Publication Request: No

Early Publication Request: No

Title

Novel 38594, 57312, 53659, 57250, 63760, 49938, 32146, 57259, 67118, 67067, 62092, FBH58295FL, 57255, and 57255alt molecules and uses therefor

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 Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

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

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OFFICE OF PETITIONS

KLAUBER & JACKSON
411 HACKENSACK AVENUE
HACKENSACK NJ 07601

In re Application of	:	
SIEWERT, Neil	:	
Application No. 11/043,891	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. **2643-1-001CON**	:	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 21, 2009.

The request is **NOT APPROVED**.

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

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

The request cannot be approved because the signature of Terry K. Tidwell, a co-inventor in this application, has been omitted. The power of Attorney will be entered upon receipt of confirmation signed by said co-inventors.

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: **NEIL STEWART**
P.O. BOX 39018
NARAIMO B.C. V9R-7R7
CANADA

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Perkins Coie LLP
P.O. Box 2168
Menlo, CA 94026

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JUL 06 2007

OFFICE OF PETITIONS

In re Application of	:	
Allan S. Lau et al.	:	
Application No. 11/043,893	:	DECISION ON PETITION
Filed: January 25, 2005	:	TO WITHDRAW
Attorney Docket No. 54099-8004.US01	:	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 20, 2006.

The request is **APPROVED**.

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

The request was signed by Peter J. Dehlinger 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 second named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed March 1, 2007 that requires a reply from the applicant.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Michael C. Kiefer**
401 Wright Court
Clayton, CA 94517

cc: **CytoPham, Inc.**
6F, #6, Sec. 1, Jung-Shing Road
Wugu Shiang, Tajpei 248
Taiwan, ROC

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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/043,893	01/25/2005	Allan S. Lau	54099-8004.US01

CONFIRMATION NO. 4719

OC000000024694457

22918
PERKINS COIE LLP
P.O. BOX 2168
MENLO PARK, CA 94026

Date Mailed: 07/06/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 11/20/2006.

- 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.

Jerri Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

9/8/09

Patent No. :7574306
Inventor(s) :David Baker et al.
Issued : 8/11/2009
Title : METHOD AND SYSTEM FOR OPTIMIZATION OF POLYMER SEQUENCES TO PRODUCE POLYMERS WITH STABLE 3-DIMENSIONAL CONFORMATIONS
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 col. 1 line 11 is printed in accordance with the record. 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
Decisions & Certificates
of Correction Branch
(703) 756-1571

OLYMPIC PATENT WORKS PLLC
P.O. BOX 4277
SEATTLE, WA 98194-0277

HR

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PULSE-LINK, INC.
1969 KELLOGG AVENUE
CARLSBAD CA 92008

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MAY 3 1 2005

OFFICE OF PETITIONS

In re Application of
Santhoff, et al.
Application No. 11/043,914
Filed: January 25, 2005
Attorney Docket No. 00208

LETTER

This letter is in response to the petition under 37 CFR 1.47(a) filed on May 11, 2005 (certificate of mailing date May 9, 2005).

The petition is **GRANTED**.

In accordance with 37 CFR 1.63(d), petitioner has submitted a copy of the executed oath or declaration filed in Application No. 09/804,110, of which the instant filing is a continuation application. Furthermore, petitioner has submitted a copy of the decision, mailed on March 21, 2002, granting a petition to accord § 1.47 status to the prior 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. No fee is required. Therefore, the $200.00 petition fee will be refunded to deposit account no. 50-3143.

The Office will not forward notice of this application's filing to the non-signing inventors because notice regarding the filing of the prior application has already been sent to the non-signing inventors.

After this decision is mailed, the application will be forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, DC 20231

5/1/09

Patent No. :7438983
Inventor(s) :Masatoshi Takahashi et al.
Issued : 11/27/2007
Title : Magnetic recording medium
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 claim 1, line 10 col.27 is printed in accordance with the record and please show evidence of an amendment or document. Therefore being no fault on the Patent and Trademark Office, It has no authority to issue a certificate of correction under the provision of 1.322.

In view of the forgoing, your request in this matter, is hereby denied.

Future written correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Henry Randall
Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 308-9390 Ext. 108

SUGHRUE MION PLLC
2100 PENNSYLVANIA AVENUE, NW
SUITE 800
WASHINGTON, DC 20037

HR/MD

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BLANK ROME LLP
WATERGATE
600 NEW HAMPSHIRE AVENUE, N.W.
WASHINGTON, DC 20037

Mail Date: 05/14/2010

Applicant	: Mark R. Easter	: DECISION ON REQUEST FOR
Patent Number	: 7666503	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/043,987	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: 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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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 8910
RESTON VA 20195

MAIL

MAR 21 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
JEON, BYEONG MOON	:	DECISION ON REQUEST TO
Application No. 11/044,001	:	PARTICIPATE IN PATENT
Filed: January 28, 2005	:	PROSECUTION HIGHWAY
Attorney Docket No. 6111-1/US/DVB	:	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 March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO 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 KIPO 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 KIPO 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 KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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.

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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MAR 21 2008

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of JEON, BYEONG MOON Application No. 11/044,002 Filed: January 28, 2005 Attorney Docket No. 6111-1/US/DVA	: : : : : : :	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 March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO 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 KIPO 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 KIPO 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 KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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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. 11/044,004 Filed: January 28, 2005 Attorney Docket No. 6111-1/US/DVC	: : : : : : :	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 March 14, 2008, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the KIPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the KIPO 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 KIPO 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 KIPO 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 KIPO examiner in the KIPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Kenneth Wieder at 571-272-2986.

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.

Kenneth A. Wieder

Kenneth Wieder
Quality Assurance Specialist
Technology Center 2600
Communications

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

Mail Date: 04/26/2010

Applicant	: John Arthur McEwan	: DECISION ON REQUEST FOR
Patent Number	: 7609290	: RECALCULATION of PATENT
Issue Date	: 10/27/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/044,006	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: 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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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA VA 22314-1176

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OFFICE OF PETITIONS

In re Patent No. 7,272,026 :
Issue Date: September 18, 2007 :
Application No. 11/044,025 : DECISION ON PETITION
Filed: January 28, 2005 :
Attorney Docket No. **CHOU3108/EM** :

This is a decision on the petition, filed, September 14, 2009, 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 in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Alberex Electronics Co., Ltd." and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

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 "Ablerex Eletronics Co., Ltd." 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 after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

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P.O. BOX 320850
ALEXANDRIA, VA 22320-4850

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MAR 11 2008

OFFICE OF PETITIONS

In re Application of :
Toshiyuki Kasai :
Application No.: 11/044,041 : ON PETITION
Filed: January 28, 2005 :
Attorney Docket No.: 113363.01 :

This is a decision on the petition, filed March 5, 2008, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 6, 2008, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2629 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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Paper No.

FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON DC 20007

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JUN 29 2009

OFFICE OF PETITIONS

In re Patent No. 7,413,220	:	
Itoga et al.	:	DECISION ON REQUEST
Application No. 11/044,046	:	FOR
Issue Date: August 19, 2008	:	RECONSIDERATION OF
Filed: January 28, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No.	:	UNDER 37 CFR 1.705
086142-0682	:	

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705," filed on October 20, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred forty (440) days to six hundred forty-one (641) days.

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

On August 19, 2008, the above-identified application matured into US Patent No. 7,413,220 with a patent term adjustment of 440 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 C.F.R. § 1.705(d).[1]

[1] As October 19, 2008 fell on a Sunday, the application for Patent Term Adjustment filed on Monday, October 20, 2008 is considered to be timely filed.

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 to include a 204-day period of adjustment pursuant to 37 C.F.R. §1.703(b). Patentees maintain entitlement to a period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR § 1.703(b), of 204 days and the period of adjustment due to other examination delay, pursuant to 37 CFR § 1.702(a), of 437 days.

At the outset, it is noted that Patentees have calculated a period of 437 days of patent term adjustment based entirely on the mailing of the first Office action 14 months and 437 days after the date the application was filed. The Office, however, has entered an additional period of delay of three (3) days for the mailing of the Notice of Allowance on April 17, 2008, four (4) months and three (3) days after the mailing of applicants' response filed on December 14, 2007 to the Office action mailed on September 27, 2007. Applicants did not include this three (3) day period in their calculation. As the period of Office delay of 440 days is correct, the period of Office delay will be referred to as 440 days, not 437 days, and patentee's argument articulated accordingly.

The 204-day period is calculated based on the application having been filed under 35 U.S.C. § 111(a) on January 28, 2005, and the application having issued as U.S. Patent No. 7,413,220, on August 19, 2008, three years and 204 days later. Patentees assert that in addition to this 204 day period, they are entitled to a period of adjustment due to examination delay, pursuant to 37 CFR § 1.702(a), of 440 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1), and, in effect, for the failure by the Office to respond to a reply under 35 U.S.C. 132 not later than four months after the date on which the reply was filed, pursuant to § 1.702(a)(2). Specifically, a first Office action was mailed on June 8, 2007, 14 months and 437 days after the application was filed on January 28, 2005. Additionally, the notice of allowance was mailed on April 17, 2008, four (4) months and three (3) days after the filing of applicants' reply on December 14, 2007.

Under 37 CFR § 1.703(f), Patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR § 1.702 reduced by the period of time equal to the period of time during which Patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR § 1.704. In other words, the period of Office delay reduced by the period of applicant delay. The period of reduction of zero (0) days for applicant delay is not in dispute.

Patentees do not dispute that the total period of Office delay is the sum of the period of Three Years Delay (204 days) and the period of Examination Delay (440 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 644 days, which is the sum of the period of Three Year Delay (204 days) and the period of Examination Delay (440 days), reduced by the period of overlap (0 days).

As such, Patentees assert entitlement to a patent term adjustment of 644 days (440 + 204 reduced by 0 overlap - 0 (applicant delay)).

The Office agrees that the application was pending a total of 3 years and 204 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 440 days is correct. At issue is whether Patentees should accrue 204 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 440 days for Office failure to take a certain action within a specified time frame (or examination delay).

<u>The Office contends that 204 days overlap</u>. 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. 54366 (Sept. 18, 2000). See also *Revision of Patent Term Extension and Patent Term Adjustment Provisions; Final Rule*, 69 Fed. Reg. 21704 (April 22, 2004), 1282 Off. Gaz. Pat. Office 100 (May 18, 2004). See also *Explanation of 37 CFR 1.703(f) and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004).

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

This interpretation is consistent with the statute. Taken together the statute and rule provide that to the extent that periods of delay attributable to grounds specified in 35 U.S.C. 154(b)(1) and in corresponding §1.702 overlap, the period of adjustment granted shall not exceed the actual number of days the issuance of the patent was delayed. The grounds specified in these sections cover the A) guarantee of prompt Patent and Trademark Office responses, B) guarantee of no more than 3 year application pendency, and C) guarantee or adjustments for delays due to interference, secrecy orders and appeals. A section by section analysis of 35 U.S.C. 154(b)(2)(A) specifically provides that:

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

actual number of days that the issuance of a patent was delayed; See 145 Cong. Rec. S14,718[2]

As such, the period for over 3 year pendency does not overlap only to the extent that the actual dates in the period beginning three years after the date on which the application was filed overlap with the actual dates in the periods for failure of the Office to take action within specified time frames. In other words, consideration of the overlap does not begin three years after the filing date of the application. Treating the relevant period as starting on January 28, 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 28, 2005, as terminated by the issuance of the patent on August 19, 2008. 440 days of patent term adjustment were accorded prior to the issuance of the patent for the Office failing to respond within a specified time frame during the pendency of the application. All of the 204 days for Office delay in issuing the patent overlap with the 440 days of Office delay. During that time, the issuance of the patent was delayed by 440 days, not 440 + 204 days. The Office took 14 months and 440 days to issue a first Office action, as well as three (3) days to mail the notice of allowance. Otherwise, the Office took all actions set forth in 37 C.F.R. § 1.702(a) within the prescribed timeframes. Nonetheless, given the initial 440 days of Office delay and the zero (0) days of applicant delay and the time allowed within the time frames for processing and examination, as of the filing date of the RCE, the application was pending three years and 204 days. The Office did not delay 440 days and then an additional 204 days. Accordingly, 440 days of patent term adjustment (not 440 and 204 days) was properly entered since the period of delay of 204 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 440 days attributable to grounds specified in § 1.702(a)(1) and (a)(2). Entry of both periods is not warranted. 440 days is determined to be the actual number of days that the issuance of the patent was

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

delayed, considering the 204 days over three years to the date of 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 3 years to issue the patent.

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

Telephone inquiries specific to this matter should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

LYNN E. BARBER
P.O. BOX 16528
FORT WORTH, TX 76162

In re Application of: :
Ellis et al. :
Application No. 10/044,088 : DECISION ON
Filed: January 27, 2005 : PETITION
For: EDUCATIONAL METHOD AND DEVICE :
SOLID STATE RELAY :

This is a decision on the Petition Under 37 CFR 1.17(f), filed May 24, 2005, requesting that the application be accorded a filing date of January 27, 2005, including Figure 15 described in the specification. The Petition is properly treated under 37 CFR 1.53.

Background

The application was filed on January 27, 2005. However, on March 30, 2005, the Office of Initial Patent Examination mailed a Notice to File Missing Parts of Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date of January 27, 2005, and advising applicants that Figure 15 described in the specification appeared to have been omitted from the application.

The instant petition

In response, the present petition was filed. The petition is accompanied by an assertion by the attorney of record to the effect that the attorney is certain that she filed Figure 15 described in the specification.

The best evidence of what was filed on August 20, 2004, is applicant's postcard receipt. Evidence of receipt of any correspondence filed in the Patent and Trademark Office can be obtained by submitting a self-addressed postcard properly itemizing and identifying the paper or papers being filed. Upon receipt of the correspondence, the Patent and Trademark Office will check the listing on the post card against the papers submitted, making sure that all items listed are present and will then stamp the postcard with an Official date stamp and

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

In this instance, Applicant has failed to provide a postcard receipt, but instead seeks to rely upon Applicant's invariable procedure.

The MPEP provides that

> If a new application is being filed, all parts of the application being submitted should be separately listed on the post card, e.g. the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).
>
> The postcard receipt will not serve as prima facie evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard 'a complete application' or 'patent application' will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee[ ] or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portions of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard.

MPEP § 503

<u>A review of the file</u>

A review of the application file reveals that Figure 15 was in fact included among the application papers as filed. The putatively missing Figure 15 was inadvertently included by this Office among the pages of specification received in the Office on January 27, 2005.

In view of the above, the petition is <u>granted</u>.

The petition fee, $400.00, has been refunded to deposit account 02-0825 as authorized in the instant petition.

The application is being referred to the Office of Initial Patent Examination for further processing with a filing date of January 27, 2005, including Figure 15 described in the specification.

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

Derek L. Woods
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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VOLPE AND KOENIG, P.C.
DEPT. ICC
UNITED PLAZA, SUITE 1600
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103

Mail Date: 04/21/2010

Applicant	: Eldad Zeira	: DECISION ON REQUEST FOR
Patent Number	: 7613159	: RECALCULATION of PATENT
Issue Date	: 11/03/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,092	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1317** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Date: 06/25/08

Patent No. : 7340754 B2
Ser. No. : 11/044,108
Inventor(s) : YAMAUCHI, YOSHIAKI
Issued : 03/04/08
Title : **DISK DRIVE DEVICE**
Docket No. : **16869S-140800US**

Re: Request for Certificate of Correction

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

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

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

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

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

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

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

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

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

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

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

Lamonte M. Newsome

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

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

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/8/09

TO SPE OF : ART UNIT 2617

SUBJECT : Request for Certificate of Correction for Appl. No.: 11044113 Patent No.: 7209732 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

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

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

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

Thank You For Your Assistance

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

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

Comments: The Request for Certificate of Correction filed 4/27/09 is approved

GEORGE ENG
SUPERVISORY PATENT EXAMINER

George Eng — 2617
SPE — **Art Unit**

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BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

Mail Date: 04/20/2010

Applicant	: Xiaolin Huang	: DECISION ON REQUEST FOR
Patent Number	: 7589781	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,137	: 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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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

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JUN 2 3 2005

OFFICE OF PETITIONS

In re Application of :
Yamamoto and Kitamura :
Application No. 11/044,159 : DECISION GRANTING PETITION
Filed: January 28, 2005 :
Attorney Docket No. 04208.0083-01000 :

This is a decision on the petition filed April 25, 2005, to vacate the "Notice of Omitted Items in Nonprovisional Application" (the "Notice") mailed March 11, 2005.

The petition is **granted**.

On January 28, 2005, the above-identified application was filed. However, on March 11, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of January 28, 2005, and advising applicant that Figure 49, as described in the specification, appeared to have been omitted. The notice set a non-extendable period for reply two-month from its mailing date.

In response, on April 25, 2005, applicant filed the present petition, a copy of Figure 49 as described in the specification, and an Office date-stamped postcard receipt acknowledging receipt of 49 sheets of the drawings (including Figure 49) among other items.

A review of the application papers revealed that 49 sheets of drawings were a part of the original disclosure; however, no Figure 49 was found among the drawings. Instead, two page "47/49" were found in the drawings. A review of the Office date-stamped postcard reveals that the postcard itemized the figures filed with original application papers and "Figures 49-53" were cited among the itemized contents. It is further noted that there is no indication in the record, or on the Office date-stamped postcard, that Figure 49 was not a part of the original disclosure. Because the date-stamped postcard specifically itemized the figures included and cited Figure 49 to be among them, the evidence is convincing that Figure 49 was among the original application papers, even though the Office has 49 sheets of drawings on record, but had no Figure 49 and the postcard claims 49 sheets of drawings. Therefore, the application, including Figure 49, was complete on filing and entitled to the presently accorded filing date of January 28, 2005, with Figure 49 as part of the original disclosure.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee 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 28, 2005, using including Figure 49.

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

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

Gary Michael Drobinski
PO Box 5351
Syracuse NY 13220

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APR 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Gary Michael Drobinski	:	
Application No. 11/044,173	:	DECISION ON PETITION
Filed: January 28, 2005	:	PURSUANT TO 37 C.F.R.
Title: DOWELLOCS FASTENED TO	:	§1.181(A)
BUILD	:	

This is a decision on the petition filed on December 8, 2006, pursuant to 37 C.F.R. §1.181(a).

The concurrently submitted change of address has been entered and made of record.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed May 16, 2006, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. §1.136(a) were requested. Accordingly, the above-identified application became abandoned on August 17, 2006. A notice of abandonment was mailed on November 29, 2006.

Petitioner has alleged that a response was timely filed on August 3, 2006.

With the present petition, Petitioner has alleged that a response was timely submitted, and has submitted, *inter alia*, a copy of a specification, an abstract, claims, and a postcard receipt which indicates that each of these items was received in

the Office of Initial Patent Examination on August 4, 2006. As such, it is clear that a response was received on that date, and subsequently misplaced in the Office.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that the mailing was timely received, and subsequently misplaced in the Office.

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

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

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

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POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUUITE 101
RESTON, VA 20191

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OFFICE OF PETITIONS

In re Application of	:
Naohito Kanamori et al	:
Application No. 11/044,174	: DECISION GRANTING PETITION
Filed: January 28, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 01-741	:

This is a decision on the petition, filed July 5, 2006 (originally transmitted on June 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 June 5, 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 2851 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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November 24, 2007

Patent No. : 7,215,894
Inventor(s) : Yuka Koyashi et al.
Issued : May 8, 2007
Title : OPTICAL TRANSMITTER DEVICE
Docket No. : 1095.1334

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.322 and 1.323.

Respecting the alleged error the omission of inventors' names, the inventors are printed in accordance with the Declaration submitted at the time of filing the application. Therefore, no correction is in order here under Rules 1.322 or 1.323.

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

However, your attention is directed to C.F.R. 1.324, wherein a request is being made to add or delete inventor(s), after issuance of the patent.

Cecelia B. Newman, Supervisor
Decisions & Certificates
of Correction Branch
(703) 308-9390 or (703) 308-9380 ext. 123

STAAS & HALSEY LLP
1201 New York, N.W.
7th Flr
Washington, DC 20005

/arg

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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OFFICE OF PETITIONS

In re Application of	:	
Rueckmann et al.	:	
Application No. 11/044,239	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 2004P01559US01	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed November 21, 2005, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Chase
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Anthony Claiborne
849 136th Avenue, N.E.
Bellevue, WA 98005

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OFFICE OF PETITIONS

In re Application of	:	
Greg Alan Bengeult	:	
Application No. 11/044,249	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 04-1022-01	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 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, "[P]ursuant to fee agreement by assignee", does not meet any the conditions set forth in 37 CFR 10.40.

If assignee of the entire interest under 37 CFR 3.71 desires to intervene in this application or appoint counsel to represent him, then the appropriate power of attorney documents must be submitted. *Note* 37 CFR 3.73(b). A courtesy copy of this decision is being mailed to the address noted in the petition and to the applicant.

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

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

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Financial Headquarters
720 NE 69th Street, Suite 16 West
Miami, FL 33138

cc: Greg Allan Bengeult
13504 S.E. 339th Court
Auburn, WA 98092-8558

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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Anthony Claiborne
849 136th Avenue, N.E.
Bellevue, WA 98005

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OFFICE OF PETITIONS

In re Application of	:	
Greg Alan Bengeult	:	
Application No. 11/044,249	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 04-1022-01	:	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 30, 2007.

The request is **APPROVED**.

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

The request was signed by Anthony Claiborne, sole attorney of record. Anthony Claiborne has 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 sole inventor at the first copied address below until otherwise properly notified by the applicant. A courtesy copy will be mailed to address noted on the request to withdraw. If this firm desires to receive future communication regarding this application then the proper power of attorney documents must be submitted.

A final rejection was mailed on April 12, 2007. Failure to timely respond will result in the abandonment of this application.

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

Kimberly Inabinet

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Greg Alan Bengeult
13504 S.E. 339th Court
Auburn, WA 98092-8558

cc: Financial Headquarters
720 NE 69th Street, Suite 16 West
Miami, FL 33138

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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
11/044,249	01/26/2005	Greg Alan Bengeult	04-1022-01

CONFIRMATION NO. 2034

OC000000026054684

62990
ANTHONY CLAIBORNE
849 136TH AVE. N.E.
BELLEVUE, WA 98005

Date Mailed: 09/27/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/30/2007.

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

K. Brabrinet

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

FORMER ATTORNEY/AGENT COPY

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/044,269	01/28/2005	Arthur M. Howald	2328-061A	7229

22429 7590 01/26/2009
LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA, VA 22314

EXAMINER
ALEJANDRO MULERO, LUZ L

ART UNIT	PAPER NUMBER
1792	

MAIL DATE	DELIVERY MODE
01/26/2009	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
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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wk

Mailed : 1/26/09

In re Application of	:	DECISION ON
Howald et al.	:	PETITION
Serial No. 11/044,269	:	
Filed: January 28, 2005	:	
For: ANTENNA FOR PLASMA PROCESSOR AND APPARATUS	:	

This is a decision on the PETITION TO REQUIRE CONSIDERATION OF WITHDRAWN CLAIMS 5-11 set forth on June 27, 2007 and finalized on December 2, 2008. On June 27, 2007, the examiner requested an election of a single disclosed species prosecution. The examiner identified the following distinct species: specie A directed to the embodiment of Fig. 10, and specie B directed to the embodiment of Fig. 12.

The applicant elected without traverse the invention defined by independent claim 1 and the claims dependent thereon, i.e. claims 2-12. The examiner in the office action of October 5, 2007 disagreed that all of the claims 1-12 were directed to the elected specie since claims 5-11 read on the embodiment of specie B. The examiner made the requirement final in the action of December 2, 2008. The examiner asserts that since the embodiment directed to the secondary winding having a single winding was elected, all claims directed to multiple windings are non-elected.

The Examiner requested a restriction between the embodiment of Fig.10 and the embodiment of Fig.12. Applicants' arguments address the embodiments of Figs. 15 and 16.

DECISION

Accordingly, the petition for withdrawal of the restriction requirement is **DISMISSED.**

Jacqueline M. Stone

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Allan M. Lowe
LOWE HAUPTMAN HAM & BERNER, LLP
1700 DIAGONAL ROAD
SUITE 300
ALEXANDRIA VA 22314

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K. CLIVE LIU
25426 ADOBE LANE
LOS ALTOS HILLS CA 94022

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OFFICE OF PETITIONS

In re Application of	:	
K. Clive Liu	:	DECISION ON PETITION
Application No. 11/044,280	:	
Filed: 26 January, 2005	:	
For: METHOD AND COMPUTER	:	
PROGRAM PRODUCT FOR IN-HOUSE	:	
DIGITAL PHOTO/CARD PROCESSING	:	
AND PRINTING/CUTTING PRODUCTION	:	

This is a decision on the petition filed on 22 May, 2006, under 37 CFR 1.137(a)[1] 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 to withdraw the holding of abandonment," or as discussed below "Renewed Petition under 37 CFR 1.137(b)."

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

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

(3) a showing to the satisfaction of the Commissioner that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and

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

The application became abandoned on 11 May, 2005, for failure to timely file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 10 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 3 May, 2006.

Petitioner, *pro se*, asserts, in pertinent part:

> I just became aware of this Notice of Abandonment a few days ago due to my long overseas trip. I remembered that I had mailed and filed the Missing Parts for my patent application around April, 2005.

The Commissioner may revive an abandoned application if the delay in responding to the relevant outstanding Office requirement is shown to the satisfaction of the Commissioner to be "unavoidable".[2] Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

> The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.[3]

---

[2] 35 U.S.C. § 133.

[3] In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

The showing of record is inadequate to establish unavoidable delay within the meaning of 35 U.S.C. § 133 and 37 CFR 1.137(a).[4] Specifically, an application is "unavoidably" abandoned only where petitioner, or counsel for petitioner, takes all action necessary for a proper response to the outstanding Office action, but through the intervention of unforeseen circumstances, such as failure of mail, telegraph, facsimile, or the negligence of otherwise reliable employees, the response is not timely received in the Office.[5]

A review of the record reveals that no reply to the Notice to File Missing Parts mailed on 22 May, 2005, is located in the Official file. An applicant alleging that a paper was filed in the Office and later misplaced has the burden of proving the allegation by a preponderance of the evidence. The fact that petitioner believes a reply was timely filed is not more persuasive than the actual papers shown to have been received by the official file. Rather, petitioner has not provided sufficient proof that the reply was timely filed.

It is noted that the USPTO has a long-established and well publicized practice for *prima facie* establishing the date of receipt of correspondence that has either been mailed or otherwise delivered to the PTO, and is asserted to have been subsequently misplaced: the itemized postcard receipt practice of MPEP 503.[6] This practice requires that any paper(s) for which a receipt is desired be filed in the USPTO with a self-addressed postcard identifying the paper(s). A postcard receipt which itemizes and properly identifies the paper(s) which is being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

Where the records of the Office (e.g. the file of the application) contain any document(s) or fee(s) corresponding to the contents of the correspondence at issue, the Office will rely upon its official record of the contents of such correspondence in the absence of convincing evidence (e.g. a postcard receipt under MPEP 503 containing specific itemization of the document(s) or fee(s) purported to have been filed with the correspondence at

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[4] See MPEP 711(c)(III)(C)(2) for a discussion ofthe requirements for a showing of unavoidable delay.

[5] Ex parte Pratt, 1887 Dec. Comm'r Pat. 31 (Comm'r Pat. 1887).

[6] The public was afforded a "reminder" of the then extent post card receipt practice at 857 *Off. Gaz. Pat. Off.* 667 (*O.G.*) (Nov. 21, 1968). This specific notice is usually repeated annually, in a January "Consolidated Listing" section of the*O.G.* that contains important *O.G.* notices of continuing relevance

issue) that the Office received and misplaced any document(s) or fee(s) that is not among the official records of the Office. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard (e.g. the number of pages of specification (including written description, claims and abstract) number of claims, number of sheets of drawings, number of pages of oath/declaration. The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard.[7] If petitioner has a postcard itemizing the filing of a response to the Notice mailed on 10 March, 2005, a copy thereof should be submitted with any renewed petition.

Additionally, petitioner could have used the Certificate of Mailing or Transmission procedures set forth at 37 CFR 1.8.

As such, there is simply no showing that a reply was timely filed.

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.[8] 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.[9]

The showing of record is that rather than filing a timely reply, petitioner was preoccupied with other matters. Petitioner's preoccupation with other matters which took precedence over the above-identified application does not constitute unavoidable delay.[10]

---

[7] MPEP 503.

[8] See Haines v. Quigg, 673 F. Supp. 314, 317, 5 USPQ2d 1130, 1132 (N.D. Ind. 1987), Vincent v, Mossinghoff, 230 USPQ 621, 624 (D.D.C. 1985); Smith v. Diamond, 209 USPQ 1091 (D.D.C. 1981); Potter v. Dann, 201 USPQ 574 (D.D.C. 1978); Ex parte Murray, 1891 Dec. Comm'r Pat. 130, 131 (1891).

[9] 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).

[10] See Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C Cir. 1982).

As such, the showing of record is that petitioner did not file a timely response to the Notice mailed on 10 March, 2005. The petition will therefore be dismissed.

ALTERNATIVE VENUE

Petitioner may wish to consider filing a renewed petition under 37 CFR 1.137(b), which now provides that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

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

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

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The 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
Randolph Building
401 Dulany Street
Alexandria, VA 22314

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

Enclosure: Form PTO/SB/64
Privacy Act Statement
Fee Schedule

PTO/SB/64 (10-05)
Approved for use through 07/31/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

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

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

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

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

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

1. Petition fee

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

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

2. Reply and/or fee

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

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

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

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

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

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

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

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures: ☐ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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

MICROSOFT CORPORATION
ONE MICROSOFT WAY
REDMOND, WA 98052

Mail Date: 04/21/2010

Applicant	: Eric B. Watson	: DECISION ON REQUEST FOR
Patent Number	: 7624102	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,289	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **232** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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
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OLTMAN, FLYNN & KUBLER
Suite 415
915 Middle River Drive
Ft. Lauderdale, FL 33304

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SEP 22 2009

OFFICE OF PETITIONS

In re Application of Ahmed et al. :
Application No. 11/044,319 :
Filing Date: January 27, 2005 :
Attorney Docket No. 13218 :

Decision on Petition

This is a decision on the petition filed June 2, 2009, 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 6, 2006. The USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. Therefore, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 31, 2009, accompanies this decision on petition.

A Notice of Allowability and a Notice of Allowance and Fee(s) Due were mailed in this case on September 18, 2008. However, in view of the nonpublication request filed with the application, the Notice of Allowance and Fee(s) Due mailed in this case did not require the submission of a publication fee. Therefore, a Notice of Publication Fee Due will be mailed under separate cover since the nonpublication request has been rescinded. Petitioner should note that payment of the publication fee must be submitted within the period set forth in the Notice to avoid abandonment of the application.

The Office of Data Management, Patent Publication Branch, will be informed of the instant decision. Thereafter, the Office of Data Management will mail a Notice of Publication Fee Due 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

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
11/044,319	01/27/2005	Cynthia G. Ahmed	13218

CONFIRMATION NO. 1468

OLTMAN, FLYNN & KUBLER
Suite 415
915 Middle River Drive
Ft. Lauderdale, FL 33304

NONPUBLICATION RESCISSION LETTER

OC000000037910452

Date Mailed: 09/22/2009

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 12/31/2009.

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".

/scbrantley/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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JUN 07 2010

OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
1290 AVENUE OF THE AMERICAS
NEW YORK NY 10104-3800

In re Application of	:	
Koji NAKAGIRI	:	
Application No. 11/044,324	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 00862.022740.1	:	

This is a decision on the petition, filed December 03, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Office action mailed March 10, 2009, which set a one (1) month shortened statutory period for reply. A Notice of Abandonment was mailed on December 01, 2009.

Petitioner asserts that the Office action dated March 10, 2009 was not received.

A review of the written record indicates no irregularity in the mailing of the Office action and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

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

This application is being referred to the Technology Center Art Unit 2625 for the appropriate action on the amendment filed with the petition on December 03, 2009.

Thurman K. Page
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DIW May-06

WADDEY & PATTERSON
1600 DIVISION STREET, SUITE 500
NASHVILLE TN 37203

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MAY 19 2006

OFFICE OF PETITIONS

In re Application of	:	
Paul Gait	:	
Application No. 11/044,330	:	DECISION ON PETITION
Filed: 26 January, 2005	:	
Atty. Docket No. N8661	:	

This is a decision on the petition filed on 13 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 27 December, 2005, for failure to timely submit the issue fee in response to the Notice of Allowance and Fee(s) Due mailed on 26 September, 2005, which set a three month statutory period for reply. Notice of Abandonment was mailed on 6 February, 2006.

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

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

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

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

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

The application is being forwarded to the Publishing Division for processing into a patent.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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Daniel S. Polley, Esq.
DANIEL S. POLLEY, P.A.
1215 East Broward Boulevard
Fort Lauderdale FL 33301

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of :
Ivo E. Pera :
Application No. 11/044,362 :
Filed: January 26, 2005 :
Attorney Docket No. 8849.6823 :

ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed July 19, 2005, requesting that the above-identified application be accorded a filing date of January 25, 2005, rather than the presently accorded filing date of January 26, 2005.

Petitioner requested the earlier filing date of January 25, 2005, on the basis that the application was purportedly deposited in Express Mail service on January 25, 2005. A copy of Express Mail Label No. ER190032262US, with a date-in of January 26, 2005, accompanies the petition.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Director to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

> (3) The petition includes a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Director, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of the log book entry.

To establish a showing under 37 CFR 1.10(d)(3), petitioner submitted the Declaration of Betty Bernal. Ms. Bernal stated that she deposited the application in an "Express Mail" drop-off box outside the U.S. Post Office on January 25, 2005. However, petitioner did not provide any evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee," showing that the Express Mail package was accepted by the USPS on January 25, 2005. Moreover, the search results of the USPS Track & Confirm for Express Mail Label No. ER190032262US does not reveal any information regarding the date the package was deposited with the USPS.

Petitioner's attention is directed to 37 CFR 1.10(b), which states, in part:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Therefore, petitioner has failed to submit sufficient corroborating evidence as required by the rule. Accordingly, the petition is **dismissed**. Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Daniel S. Polley, Esq.
DANIEL S. POLLEY, P.A.
1215 East Broward Boulevard
Fort Lauderdale FL 33301

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AUG 29 2005

OFFICE OF PETITIONS

Applicant: Pera
Application No. 11/044,362
Filed: January 25, 2005
For: COMPOSITION TO REDUCE OR QUIT SMOKING ADDICTION

: Decision On
: Nonpublication Request

This is in reply to "Response to Notice Regarding Nonpublication Request," which was received on June 28, 2005.

Applicant's request cannot be granted.

Applicant states that a nonpublication request was filed in the above-identified application because the present application is a continuation-in-part application, which contains "although not a lot, new subject matter from the previous application." Thus, applicant's representative concludes that the nonpublication request is believed to be appropriate.

35 U.S.C. 122(b) requires the United States Patent and Trademark Office to publish utility and plant applications filed on or after November 29, 2000, unless, on filing, applicant requested nonpublication with the required certification under 35 U.S.C. 122(b)(2)(B)(i).

> 35 U.S.C. 122(b)(2)(B)(i) provides that "[i]f an applicant makes a request upon filing, certifying that the invention disclosed in the application **has not and will not** be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing, the application shall not be published as provided in paragraph (1)." (Emphasis added.)

The nonpublication request was not accepted because the certification appears to be inconsistent with the priority claim to an application filed in another country, which requires publication at 18 months after filing. See the questions and answers posted on the USPTO internet web site regarding publication: http://www.uspto.gov/web/offices/dcom/olia/aipa/18monthfaq.htm#cq

Applicants' response to the Notice Regarding Nonpublication Request is deficient because applicants' statement concerning "new matter" does not address the accuracy of the certification in that applicant has not shown that the invention has not and will be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication

of applications 18 months after filing. For example, applicant has not shown that no claim is supported in the manner provided by first paragraph of 35 U.S.C. 112 in the earlier foreign or international application. See Manual of Patent Examining Procedure (MPEP), Section 1122.

Instead of requesting nonpublication, applicant could have considered requesting that the application be published in a redacted form so as to eliminate what applicant considers the "new matter." See 37 CFR 1.217, which provides that the applicant may submit a redacted copy of the application for publication, eliminating any part of the description of the invention that is not also contained in the application filed in the foreign country. See also 35 U.S.C. 122(b)(2)(B)(v). The provisions in the statute providing for redaction further support the conclusion that a nonpublication request is inappropriate if where applicant files an application in a foreign country and requests nonpublication of the application filed in the United States, because the redaction step would be unnecessary if nonpublication was appropriate.

The application was scheduled for publication on September 15, 2005, and the publication date has been rescheduled for publication on November 3, 2005 so that applicant will have an opportunity to withdraw or rescind the nonpublication request.

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-7709.

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN NC 28562

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NOV 17 2006
OFFICE OF PETITIONS

In re Application of	:	
Gundula CZYZEWSKI et al.	:	DECISION ON PETITION
Application No. 11/044,396	:	UNDER 37 CFR 1.78(a)(3)
Filed: January 27, 2005	:	
Attorney Docket No. 2002P00793WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/06769, filed June 26, 2003, set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/006769).

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/044,396	01/27/2005	1746	1800	2002P00793WOUS	1	36	2

CONFIRMATION NO. 9082

CORRECTED FILING RECEIPT

OC000000021267646

000046726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 11/16/2006

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

Applicant(s)

Gundula Czyzewski, Berlin, GERMANY;
Ingo Schulze, Panketal, 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/EP03/06769 06/26/2003

Foreign Applications

GERMANY 10234473.6 07/29/2002

If Required, Foreign Filing License Granted: 06/13/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/044,396

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Process for accelerated wetting of laundry in a drum washing machine

Preliminary Class

008

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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PATENT MANAGEMENT GROUP
1515 N COURTHOUSE ROAD
SUITE 500
ARLINGTON VA 22201-2909

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OFFICE OF PETITIONS

In re Application of	:	
Brig Barnum Elliott	:	
Application No. 11/044,397	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 03-4045	:	

This is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed August 6, 2007.

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

The above-identified application became abandoned for failure to timely file a reply in response to the final Office action mailed January 5, 2007. This Office action set a shortened statutory period for reply of three months. No proper reply having been received, the application became abandoned on April 6, 2007. The mailing of this decision precedes the mailing of a courtesy Notice of Abandonment.

A review of the file reveals that the January 5, 2007 Office action, due to an Office error in not including the address on the mailing envelope, was returned as undeliverable. Accordingly, it is obvious that the Office action was not received by Applicant.

In view thereof, the holding of abandonment is **WITHDRAWN.**

The matter is being forwarded to Group Art Unit 2617 for re-mailing of the January 5, 2007 final Office action, setting a new period for reply.

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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Zuber & Taillieu
9th Floor
9595 Wilshire Blvd.
Beverly Hills, CA 90212

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OFFICE OF PETITIONS

In re Application of	:	
Anthony Trutanich	:	
Application No. 11/044,403	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. 350-1001	:	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 6, 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 John Carr on behalf of all attorneys of record.

All attorneys/agents have been withdrawn.

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

All future correspondence will be directed to the first named inventor Anthony Trutanich at the address indicated below.

There is no outstanding Office action at this time.

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

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Anthony Trutanich**
7261 Outpost Coast Drive
Los Angeles, CA 90068

cc: **Anthony Trutanich**
3 Pleasant Hill Drive
Rolling Hills Estates, CA 90274

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6387 CAMINITO LAZARO
SAN DIEGO CA 92111

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OFFICE OF PETITIONS

In re Application of	:	
Cayne, Jaeson	:	DECISION ON PETITION
Application No. 11/044,409	:	TO WITHDRAW
Filed: January 27, 2005	:	FROM RECORD
Attorney Docket No. CAYNEj-1	:	

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 3, 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 Calif Tervo on behalf of all attorneys of record who are associated with Customer Number 31560.

All attorneys/agents associated with the Customer Number 31560 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.

David Bucci for
Petitions Examiner
Office of Petitions

Cc: JAESON CAYNE
15830 HIGHLAND COURT
SOLANA BEACH, CA 92075

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Paper No. None

RADER, FISHMAN & GRAUER PLLC
39533 WOODWARD AVENUE
SUITE 140
BLOOMFIELD HILLS MI 48304-0610

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MAY 24 2006

OFFICE OF PETITIONS

In re Application of :
Kenneth M. Walkerdine :
Application No. 11/044,410 :
Filed: January 27, 2005 :
Attorney Docket No. 65585-0022 :
Title: WEIGHT-TRAINING :
APPARATUS HAVING SELECTABLE :
WEIGHT PLATES :

DECISION ON PETITION
UNDER 37 C.F.R. §1.137(f)

This is a decision on the petition filed on March 14, 2006, pursuant to 37 C.F.R. §1.137(f), to revive the above-identified application.

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

(1) Notification of the filing of an application in a foreign country or under a multinational treaty that requires 18 month publication[1];
(2) The petition fee as set forth in 37 C.F.R. § 1.17(m), and;
(3) A statement that the entire delay in filing the notice from the date that the notice was due under 35 U.S.C. §122(b)(2)(B)(iii) until the date the notice was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

1 See PTO/SB/36 and paragraph on PTO/SB/64a for further information. Both may be downloaded at http://www.uspto.gov/web/forms/index.html.

Petitioner states that the present nonprovisional application is the subject of an application filed in either a foreign or an international application on January 23, 2006. However, the United States Patent and Trademark Office was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in either an international application or a foreign country.

On March 13, 2006, a Notice of Rescission of Nonpublication Request was filed with the Office or with the present petition. Notification of the filing of the international application did not accompany this filing.

In view of the above, this application became abandoned pursuant to 35 U.S.C. §1.22(b)(2)(B)(iii) and 37 C.F.R. §1.213(c) for failure to timely notify the Office of the filing of either a foreign application or an application under a multilateral international agreement that requires publication of applications 18 months after filing.

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

Petitioner has submitted the notification of either a foreign or an international filing, paid the petition fee, and has made the proper statement of unintentional delay.

The present petition has been found to be in compliance with 37 C.F.R. §1.137(f). Accordingly, the failure to timely notify the Office of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. §122(b)(2)(B)(iii) and 37 C.F.R. §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), filed with the original application papers, has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of August 24, 2006 accompanies this decision on petition.

Technology Center 3700 will be notified of this decision.

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

Encl. Communication Regarding Rescission of Nonpublication Request and/or Notice of Foreign Filing

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OFFICE OF PETITIONS

KELLY LOWRY & KELLEY, LLP
6320 CANOGA AVENUE
SUITE 1650
WOODLAND HILLS, CA 91367

In re Application of
Artak Ter-Hovhannissian
Application No. 11/044,429
Filed: January 26, 2005
Attorney Docket No. TERHOV-46559

ON PETITION

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

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 21, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed October 21, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 22, 2009. A Notice of Abandonment was subsequently mailed on February 13, 2009. On March 17, 2009, the present petitions were filed.

The petitions satisfy the requirements of 37 CFR 1.137(b) in that petitioners have supplied (1) the reply in the form of the $755 issue fee and $300 publication fee; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/044,457	01/28/2005	Roland Bazin	122574

OLIFF & BERRIDGE, PLC
P.O. BOX 19928
ALEXANDRIA VA 22320

DATE MAILED: September 26, 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 September 12, 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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FAEGRE & BENSON LLP
PATENT DOCKETING – IP
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS, MN 55402-3901

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OFFICE OF PETITIONS

In re Patent No. 7,500,407	:	
Issue Date: March 10, 2009	:	
Application No. 11/044,462	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 74603-314300	:	

This is a decision on the petition filed July 21, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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IBM CORPORATION
INTELLECTUAL PROPERTY LAW
11501 BURNET ROAD
AUSTIN, TX 78758

Mail Date: 04/20/2010

Applicant	: Bryan Christopher Chagoly	: DECISION ON REQUEST FOR
Patent Number	: 7631073	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,465	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1352** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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BRINKS HOFER GILSON & LIONE/CHICAGO/COOK
PO BOX 10395
CHICAGO, IL 60610

Mail Date: 04/21/2010

Applicant	: Richard B. Sisken	: DECISION ON REQUEST FOR
Patent Number	: 7572289	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,522	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **462** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
www.uspto.gov
DIW May-06

THOMAS E. ANDERSON
GIFFORD, KRASS, GROH, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
PO BOX 7021
TROY MI 48007-7021

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MAY 16 2006

OFFICE OF PETITIONS

In re Application of	:	
Li et al.	:	
Application No. 11/044,527	:	DECISION ON PETITION
Filed: 26 January, 2005	:	
Atty Docket No. TTC-17902/08	:	

This is a decision on the petition filed on 2 February, 2006, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 4 August, 2005, for failure to timely submit an executed oath or declaration and surcharge for its late filing in response to the Notice to File Missing

---

[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)).

Parts of Nonprovisional Application mailed on 4 April, 2005, which set a two (2) month shortened period for reply. No extensions of time in accordance with 37 CFR 1.136(a) were obtained. The present petition precedes the mailing of Notice of Abandonment.

The present petition is accompanied by an executed declaration and the late-filing surcharge.

This application is being referred to Technology Center 1713 for examination in due course.

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

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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GIFFORD, KRASS, SPRINKLE,
ANDERSON & CITKOWSKI, P.C.
P.O. BOX 7021
TROY, MI 48007-7021

Mail Date: 04/21/2010

Applicant	: Siwen Li	: DECISION ON REQUEST FOR
Patent Number	: 7576165	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,527	: 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 **313** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

ANTONELLI, TERRY, STOUT & KRAUS, LLP
1300 NORTH SEVENTEENTH STREET, SUITE 1800
ARLINGTON, VA 22209-3873

In re Application of	:	
Kenji **TAKAI, et al.**	:	
Application No. 11/044,533	:	DECISION GRANTING PETITION
Filed: January 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **120444696X00**	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 6, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on December 23, 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 1794 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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DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

Mail Date: 04/20/2010

Applicant	: Albert Prak	: DECISION ON REQUEST FOR
Patent Number	: 7582263	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,542	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1223** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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MITCHELL P. BROOK
LUCE, FORWARD, HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, SUITE 200
SAN DIEGO, CA 92130

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OCT 23 2009

OFFICE OF PETITIONS

In re Application of :
Jared MORGENSTERN, et *al.* :
Application No. 11/044,544 :
Filed: January 26, 2005 :
Attorney Docket No. **30289-1240** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment (Notice), mailed January 14, 2009. The Notice set a period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on February 15, 2009.

It is noted that petitioner submitted authorization to charge the petition fee of $770, however, the current fee for Petition to Revive an Application Unintentionally Abandoned is $810. Therefor, the petition fee of $810 has been charge to petitioner's Deposit Account No. 50-2298.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $810; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center Art Unit 2165 for appropriate action by the Examiner in the normal course of business on the amendment submitted on June 30, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

MRD
6/30/09

Atty. Docket No.: 30289-1240

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	MORGENSTERN and LIM	Art Unit:	2165
Serial No.:	11/044,544	Examiner:	Michael J. Hicks
Filed:	January 26, 2005	Confirmation No.:	1971
For:	METHOD AND APPARATUS FOR CONTRACTING A NETWORKING DATABASE AND SYSTEM PROACTIVELY		

San Diego, California
June 30, 2009

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

PETITION UNDER 37 CFR 1.137(b) TO REVIVE AN ABANDONED APPLICATION

Dear Sir:

Applicants hereby petition to revive the above-identified application, which became abandoned unintentionally due to failure to receive a Notice of Non-Compliant Amendment dated January 14, 2009 for the above-identified application.

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that on the date indicated below, this correspondence and anything being referred to as enclosed herein is being: ☐ deposited with the United States Postal Service via first class mail with sufficient postage in an envelope addressed to Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450; or ☐ transmitted via facsimile to the United States Patent and Trademark Office, facsimile number: ( ) - ; or ☒ transmitted via the United States Patent and Trademark Office electronic filing system.

Date: June 30, 2009

Signature: Jason Berry

Name: Jason Berry

Adjustment date: 10/22/2009 CKHLOK
07/01/2009 INTEFSW 00006234 502298 11044544
01 FC:2452 270.00 CR

10/22/2009 CKHLOK 00000015 502298 11044544
01 FC:2453 810.00 DA

Petitioners appreciate the courtesy of the Examiner in alerting Petitioners of the Notice of Non-Compliant Amendment at issue by telephone.

The entire delay in filing the required reply pursuant to 37 CFR 1.136(a) from the due date for the reply to the filing of this petition was unintentional.

After a thorough search of the docket record and file jacket, we hereby attest that the January 14, 2009 Notice of Non-Compliant Amendment was never received.

In support of the petition, the following items are enclosed for consideration.

Exhibit 1. A Due Date list from the docket system of Applicants' representatives of all items due at the one-month, two-month and three-month dates from the mailing date of the non-received Notice of Non-Compliant Amendment. The enclosed report shows no entry for the January 14, 2009 Notice of Non-Compliant Amendment at issue, the deadline for which would have been listed as February 14, 2009. To protect client confidentiality, client names for the other cases listed on the Due Date list have been redacted.

Exhibit 2. A copy of the docket record of Applicants' representatives, including the Actions Due page and the Remarks section for the present case. The Actions Due page shows no deadline of February 14, 2009 for the January 14, 2009 Notice of Non-Compliant Amendment at issue. The Remarks section shows no entries between the mailing date of the non-received Notice of Non-Compliant Amendment (January 14, 2009) and the date we were notified of the abandonment for failure to respond to the Notice of Non-Compliant Amendment (June 24, 2009).

A Response to Office Action, addressing all pending objection and rejections in the above-identified application, including those raised by the January 14, 2009 Notice of Non-Compliant Amendment, also is enclosed herewith.

Petitioners respectfully request that the U.S. Patent and Trademark Office accept the enclosed Response to Office Action and allow continued prosecution of the above-identified patent application.

Applicant has charged the fee pursuant to 37 CFR 1.17(m) for a Petition to Revive an Unintentionally Abandoned Application for a Small Entity of $770.00 to Deposit Account No. 50-2298. The Commissioner is hereby authorized to charge payment of any additional fees required to Deposit Account No. 50-2298, in the name of Luce, Forward, Hamilton & Scripps LLP.

Dated: June 30, 2009

Respectfully submitted,

Eric L. Lane
Reg. No. 56,399
Attorney for Applicants

LUCE, FORWARD, HAMILTON & SCRIPPS, LLP
11988 El Camino Real, Suite 200
San Diego, California 92130
Tel.: (858) 720-6300
Fax : (858) 720-6306

701035557.1

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/044,547	01/27/2005	David Harry Melik	9501M	1931

27752 7590 04/14/2010
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI, OH 45202

EXAMINER
COLE, ELIZABETH M

ART UNIT	PAPER NUMBER
1782	

MAIL DATE	DELIVERY MODE
04/14/2010	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
P.O. Box 1450
Alexandria, VA 22313-1450
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APR 14 2010

wk

Mailed:
In re application of
Melik et al.
Serial No. 11/044,547
Filed: 01/27/2005
For: SOFT EXTENSIBLE NONWOVEN WEBS CONTAINING FIBERS WITH HIGH MELT FLOW RATES

DECISION ON PETITION

This is a decision on a PETITION filed February 2, 2010, which has been accepted as a timely petition under 1.59(b) and MPEP 724.02 and is before the Group Director of Technology Center for consideration.

DECISION

Petitioner requests that documents related to Notice of Non-Compliant Appeal Brief filed January 28, 2010 be expunged. Each of the criteria for granting the request has been satisfied, see the MPEP 724.05.

The petition is **GRANTED.**

Section 1.59 has been amended to eliminate references to returning documents that have been expunged to recognize that, with electronic Official files, there will be nothing to return when a paper is expunged.

The Office is capturing electronic images of all documents that form the Official file. Where the image is generated from a physical source document, the originating document may be disposed of once the electronic image accuracy is verified. The paper source document will eventually be destroyed under a United States National Archives and Records Administration (NARA) approved schedule. Therefore, if a document is to be expunged from the record, the only operation that will be required will be removal of the image from the Official file.

Paragraph (a)(1) of §1.59 has been amended by deleting the phrase "and returned " from the first sentence, and deleting the second sentence. Paragraph (b) of §1.59 has been amended by deleting the phrase "and return " from each of the first and second sentences. The Office will continue to provide notice in the Official file that a paper has been expunged and the Office will send a decision to the applicant notifying the applicant that the paper has been expunged.

11/044,547

The images will be removed from the Official file.

/JACQUELINE STONE/

Jacqueline M. Stone, Director
Technology Center 1700
Chemical and Materials Engineering

Jay A. Krebs
THE PROCTER & GAMBLE COMPANY
Global Legal Department - IP
Sycamore Building - 4th Floor
299 East Sixth Street
CINCINNATI OH 45202

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FROM DIRECTORS OFFICE

OCT 11 2006

TECHNOLOGY CENTER 3600

John A. Miller
Warn, Hoffmann, Miller & LaLone, P.C.
P.O. Box 70098
Rochester Hills, MI 48307

In re Application of	:	
Wehner et al.	:	DECISION ON PETITION
Application No. 11/044,550	:	TO REVIEW RESTRICTION
Filed: January 27, 2005	:	REQUIREMENT
For: SPACECRAFT INCLUDING VANES HAVING	:	UNDER 37 CFR 1.144
VARIABLE ABSORPTIVE, REFLECTIVE	:	
AND EMISSIVE CHARACTERISTICS	:	

This is in response to applicants' Petition for Supervisory Review received September 5, 2006 requesting a review of the requirement for restriction made final in the Quayle action mailed July 13, 2006 and that the restriction requirement be withdrawn and that all the claims be examined together.

The petition is **GRANTED.**

A review of the record indicates that the examiner required a restriction between invention I (claims 1-11) drawn to a spacecraft and invention II (claims 12-20) also drawn to a spacecraft. The examiner further required an election between species A as shown in figures 1-9 and species B as shown in figures 10-12. In a response filed January 13, 2006 and a supplemental response filed April 21, 2006, applicants elected, with traverse, invention I, species B. In a Quayle action mailed July 13, 2006, the examiner made the restriction requirement final, allowed claims 1-11 and required applicants to cancel claims 12-20 as being drawn to a non-elected invention. In a response received August 7, 2006, applicants cancelled claims 12-20. However, that response was held non-compliant and a notice to that effect was mailed August 14, 2006. In response to the notice of non-compliance, applicants withdrew the cancellation of claims 12-20 and concurrently filed the petition for Supervisory review.

A further review of the restriction requirement reveals that invention I is drawn to a spacecraft having a control vane with a control surface, and invention II is drawn to a spacecraft having a control vane with first and second outer layers. The examiner indicated that the inventions are distinct, each from the other because they are related as subcombinations useable together in a single combination. However, a review of the specification indicates that the invention is a spacecraft that is disclosed as having a control vane with a control surface wherein the control surface comprises a first layer on one side of the control vane and a second layer on an opposite

side to the control vane. Claims 1 and 12 are not subcombinations of a spacecraft. Claim 1 is merely broader in scope than claim 12. Therefore, inventions I and II are not distinct from each other as they are not subcombinations useable together in a single combination.

Accordingly, the restriction requirement is withdrawn and the application will be returned to the examiner to consider claims 12-20.

Donald T. Hajec, Director
Patent Technology Center 3600
(571) 272-5150

DTH/tl: 9/26/06

UNITED STATES PATENT AND TRADEMARK OFFICE

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DONALD J. PERREAULT
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 COMMERCIAL STREET
MANCHESTER NH 03101

MAILED

JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Kwon et al.	:	DECISION ON PETITION
Application No. 11/044,557	:	TO WITHDRAW
Filed: Janaury 27, 2005	:	FROM RECORD
Attorney Docket No. JWI101	:	

This is a decision on the request to withdraw as attorney of record under 37 C.F.R. § 1.36, filed April 6, 2009.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71,* or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

> *An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.*

The Statement under 37 CFR 3.73(b) submitted on both May 25, 2009 and June 6, 2009 is not proper since the person signing the Statement has not printed their name nor provided their title within the company. Therefore, as there is currently no proper Statement under 37 CFR 3.73(b) currently of record in the instant application, the Office cannot change the correspondence address to the address on the Request to Withdraw.

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

Currently, there is an outstanding Office action mailed March 31, 2009 that requires a reply.

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

/Liana Walsh/
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
WWW.USPTO.GOV

Paper No. None

C. IRVIN MCCLELLAND
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA VA 22314

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SEP 1 1 2006
OFFICE OF PETITIONS

In re Application of	:	
Masanori Tanaka	:	
Application No. 11/044,562	:	DECISION ON PETITION
Filed: January 28, 2005	:	UNDER 37 C.F.R. §1.181
Attorney Docket Number:	:	
265210US2	:	
Title: IMAGE FORMING APPARATUS	:	
AND AN ACCOUNTING METHOD	:	
THEREIN	:	

This is a decision on the petition filed on June 20, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (notice), mailed March 14, 2005[1], which set a shortened statutory period for reply of two 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 May 15, 2005. A notice of abandonment was mailed on May 3, 2006.

With the present petition, Petitioner contends that response was timely submitted, and has submitted a copy of the declaration, a certificate of mailing[2], and a postcard receipt which indicates that a declaration was received in the Office of Initial Patent Examination on May 13, 2005. As such, it is clear that a

1 A duplicate copy was mailed on March 16, 2005.
2 The certificate of mailing cannot be relied upon, as it has not been executed.

response was received on that date, and subsequently misplaced in the Office.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that petitioner has met his burden of establishing that the mailing was timely received, and subsequently misplaced in the Office.

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

The Office of Initial Patent Examination will be notified of this decision, so that the declaration which was submitted with the present petition can be processed.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

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

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NOV 28 2008

In re Application of	:	
Richard TANENBAUM	:	
Application No. 11/044,601	:	DECISION ON PETITION
Filed: January 26, 2005	:	TO WITHDRAW
Attorney Docket No. 061061-5000-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 November 13, 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 Francis E. Morris on behalf of the attorneys of record associated with Customer Number 09629.

The attorneys of record associated with Customer Number 09629 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 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: RICHARD TANENBAUM
17 STATE ST., 4TH FLOOR
NEW YORK, NY 10004

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE WA 99201

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AUG 2 5 2005

OFFICE OF PETITIONS

In re Application of	:
Zaner-Godsey, et al.	:
Application No.: 11/044,613	: DECISION DISMISSING
Filed: January 27, 2005	: PETITION
Attorney Docket No. MS1-2251US	:
For: Attachment Browser	

This is a decision on the petition under 37 CFR 1.47(a), filed August 1, 2005, to revive the above-identified application.

The petition is **dismissed**.

Any request for reconsideration of this decision should include a cover letter entitled "Reconsideration Petition under 37 CFR 1.47(a)." Petitioner is advised that this is not a final agency decision.

The petition will not be treated because the petition is not signed by either (1) all the named inventors, (2) the owner to the rights of the inventor (the assignee), or (3) a registered attorney or agent duly appointed by the inventors or owners, as is required by 37 CFR 1.33 (b).

It appears that the Rule 47(a) petition is from Attorney David A. Morasch, but Attorney Morasch has not signed the petition itself (or some pages of the petition are missing). Applicants should submit a complete copy of the petition signed by Attorney David A. Morasch.

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

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

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

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

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
Office of the Deputy Commissioner
for Patent Examination Policy

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:
Zaner-Godsey, et al.	:
Application No.: 11/044,613	: DECISION DISMISSING
Filed: January 27, 2005	: PETITION
Attorney Docket No. MS1-2251US	:
For: Attachment Browser	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed September 2, 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. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. **Failure to respond will result in abandonment of the application.**

The above-identified application was filed on January 27, 2005 without an executed oath or declaration. Accordingly, on March 3, 2005, a "Notice to File Missing Parts of Nonprovisional Application" (Notice) was mailed, requiring an executed oath or declaration, fees, and a surcharge for their late filing.

In response, on August 1, 2004, a petition not signed by an appropriate party was filed. This petition was dismissed on August 25, 2005.

The instant reconsideration petition was timely filed on September 2, 2005. Attorney David A. Morasch explains in the petition that the non-signing joint inventor, Hosea Frank, cannot be reached and/or may refuse to execute the application papers. Attorney Morasch states that e-mails that included an attachment of the application declaration were sent to the inventor's e-mail address on several occasions from March 28, 2005 to June 15, 2005. On March 25, 2005, Mr. Frank responded to an e-mail requesting his home address. No response to other e-mails was received.

A grantable petition under 37 CFR 1.47(a) requires

(1) a petition including proof of the pertinent facts establishing that the joint inventor(s) refuses to join, or cannot be found or reached after diligent effort,
(2) a proper oath or Declaration executed by the available joint inventor(s),
(3) the fee of $200, and
(4) the last known address of the omitted inventor(s).

This petition lacks item (1) above.

As to item (1), Applicants have failed to establish that the inventor has refused to sign the declaration. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events. The Office requires that the non-signing inventor be provided with a complete copy of the application as filed. This includes the specification with claims, drawings, if any, and a declaration. See MPEP 409.03(d). The petition does not establish that a complete copy of the application was sent to and received by Mr. Frank.

Mr. Frank must have the complete application in his possession in order to make an informed decision as to whether he joins in its filing. It is recommended that petitioners mail the application papers to Mr. Frank, instead of e-mailing them. There could be some question as to whether the e-mail was read; whether the attachment or e-mail was properly transmitted; etc.. In addition, the only time Mr. Frank has responded to practitioner's communications was when he was asked for his home mailing address. Mr. Frank may prefer conducting business through the mail. Sending the application papers to his home mailing address using some sort of tracking system would prove that the application papers were delivered.

When petitioners can show that Mr. Frank was mailed or received the complete application **and** that he either refused to sign the declaration or would not respond to the request that he sign the declaration within a reasonable amount of time, petitioners will have satisfied this requirement.

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

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

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

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

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
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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SPOKANE WA 99201

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NOV 16 2005

OFFICE OF PETITIONS

In re Application of	:
Zaner-Godsey, et al.	:
Application No.: 11/044,613	: DECISION NOTING JOINDER OF
Filed: January 27, 2005	: INVENTOR AND DISMISSING RULE
Attorney Docket No. MS1-2251US	: 47(A) AS MOOT
For: Attachment Browser	:

Papers filed on November 1, 2005 in reply to "Decision Refusing Status Under 37 CFR 1.47(a)" mailed on September 29, 2005, included a Declaration signed by the previously nonsigning inventor, Hosea Frank, in compliance with 37 CFR 1.63.

The petition under 37 CFR 1.47(a) is **DISMISSED AS MOOT**.

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 returned to the Office of Initial Patent Examination for further processing.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 06/28/2010

Applicant	: Brian Hernacki	: DECISION ON REQUEST FOR
Patent Number	: 7665134	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/044,615	: 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 **1120** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 30 2010

OFFICE OF PETITIONS

SHUMAKER & SIEFFERT, P.A
1625 RADIO DRIVE, SUITE 300
WOODBURY MN 55125

Applicant: Guruswamy et. al.	:	DECISION ON REQUEST FOR
Patent Number: Not Yet Available	:	RECALCULATION of PATENT
Issue Date: Not Yet Available	:	TERM ADJUSTMENT IN VIEW OF
Application No. 11/044,619	:	WYETH
Filed: 1/27/2005	:	

The Applicant's Request for Recalculation is **DISMISSED AS PREMATURE**. Applicant has filed the request based upon the USPTO determination that is provided to applicant in the notice of allowance.

The USPTO does not calculate and inform the applicant of the patent term adjustment based upon the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) or the overlapping provision in 35 USC § 154(b)(2)(A) in the notice of allowance because the USPTO must know the date the patent will issue to be able to calculate the patent term adjustment based upon these provisions. Accordingly, the USPTO does not determine the amount of "B" delay or the amount of overlap as required by Wyeth until the USPTO establishes a grant date.

Thus, reconsideration of the patent term adjustment indicated in the patent as it relates to the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and any overlap pursuant to 35 USC § 154(b)(2)(A) are not considered matters that could have been raised in an application for patent term adjustment under 37 CFR 1.705(b)(provides for reconsideration of the patent term adjustment indicated in the notice of allowance). Therefore, a request for reconsideration of the patent term adjustment calculation based on the three-year pendency provision of 35 U.S.C. § 154(b)(1)(B) and the overlapping provision of 35 USC § 154(b)(2)(A) will be considered timely filed if filed within two months of the issue date of the patent.

Applicant may file a reply to this decision dismissing the Request for Recalculation. Applicant 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.

Applicant 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.

Applicant should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent 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.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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Kirkpatrick & Lockhart Preston Gates Ellis LLP
(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON MA 02111-2950

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JUN 16 2008

OFFICE OF PETITIONS

In re Application of	:	
Azer, et al.	:	DECISION ON PETITION
Application No. 11/044,626	:	
Received: January 27, 2005	:	
Atty. Dkt. No.: INL-086	:	

This decision is in response to the petition to withdraw the holding of abandonment under 37 CFR 1.181 filed April 15, 2008.

The petition under 37 CFR 1.181 to withdraw the holding of abandonment is hereby GRANTED.

This application was held abandoned for failure to timely submit a proper reply to the Notice of Non-Compliant Amendment (Notice) mailed October 22, 2007. The Notice set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed March 18, 2008.

Petitioners argue that a Notice was never received and have, in accordance with MPEP 711.03(c), submitted evidence in support of the contention of non-receipt of the Notice.

Review of Office records reveals that the Notice was improperly mailed to the wrong correspondence address and returned to the USPTO on October 24, 2007. The Notice was not re-mailed in accordance with the procedures set forth at MPEP 707.13.

In view of the evidence of record, 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.

This application is being forwarded to the Group Art Unit 3736 for re-mailing of the Notice. The time period for reply will be reset in the newly mailed Notice.

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

BAKER & MCKENZIE LLP
1114 AVENUE OF THE AMERICAS
NEW YORK NY 10036

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AUG 07 2007

OFFICE OF PETITIONS

In re Application of	:	
Althaus, Buschhoff Hennicke	:	
Application No. 11/044,635	:	ON PETITION
Filed: December 28, 2004	:	
Attorney Docket No. 56183774-115	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed January 19, 2007, to revive the above-identified application.

The petition is **GRANTED.**

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

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

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

Liana Walsh
Petitions Examiner
Office of Petitions

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 No. : 7,500,407 B2
Serial No. : 11/044,642
Inventor(s) : Boiten
Issued : March 10, 2009
Title : **TORQUE SENSOR**
Docket No. : **74603-314300**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request, to date, there is no petition on record to consider your request.

Furthermore, Assignees' and/ or Co-assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, which requires petition under 37 CFR 3.81(b).

A request for a patent to be corrected to state the name of the assignee must:

A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.
See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items B and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.
Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

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

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

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

If, the petition under 37 CFR 1.182 (required fee currently $130), is filed and granted, the patentee would be entitled to a certificate of correction under 37 CFR 1.323 (required fee currently $100), which has been received.

Respecting the alleged error(s) in the References Cited, the patent is printed in accordance with the record, since there is no record of a 1449 or 892 with reference(s) considered by the Examiner.

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

However, further consideration will be given your request in this matter upon receipt of a copy of the 1449 or 892 with the requested reference(s) considered by the Examiner.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 308-9390 x 125
Decisions & Certificates
of Correction Branch
(703) **308-9390 x 122**

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

ecw

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Patent No. : 7,500,407 B2
Serial No. : 11/044,642
Inventor(s) : Boiten
Issued : March 10, 2008
Title : **TORQUE SENSOR**
Docket No. : **74603-314300**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

There is no petition filed or entered on record as requested in the previous letter of denial dated 5/6/09. Therefore, no correction is in order here.

A petition under 37 CFR 3.81 must be filed and granted to fulfill your request.

Future correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

Ernest C. White, *LIE*
For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch
(703) **756-1590**

FAEGRE & BENSON LLP
PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

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MINNEAPOLIS MN 55402-3901

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NOV 24 2009

OFFICE OF PETITIONS

In re Patent No. 7,500,407	:	
Issue Date: April 21, 2009	:	
Application No. 11/044,642	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 74603-31400	:	

This is a decision on the petition filed July 21, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

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[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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Snell & Wilmer L.L.P. (AMEX)
ONE ARIZONA CENTER
400 E. VAN BUREN STREET
PHOENIX, AZ 85004-2202

Mail Date: 04/23/2010

Applicant	: Priscilla Gandel	: DECISION ON REQUEST FOR
Patent Number	: 7588184	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/044,662	: OF WYETH
Filed	: 01/27/2005	:
		:

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.

UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

JOHN M. WILLIAMS
2626 RIO GRANDE DR.
PUNTA GORDA FL 33950

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JAN 24 2007

OFFICE OF PETITIONS

In re Application of	:	
WILLIAMS	:	
Application No. 11/044,666	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No.	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed September 13, 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 **DISMISSED**.

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

The instant petition does not include an affidavit from inventor John M Williams physician, attesting to his health status.

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

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

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

By FAX: (571) 273-8300

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

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

The application is being forwarded to the Technology Center Art Unit 3634 for action in its regular turn.

Monica A. Graves
Petitions Examiner
Office of Petitions

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SEP 28 2006

OFFICE OF PETITIONS

ORUM & ROTH LLC
53 Jackson Blvd.
Chicago IL 60604

In re Application of	:	
Pietro Padovani	:	
Application No. 11/044,693	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. 14070	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006.

The request is **APPROVED**.

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

The request was signed by Catherine L. Glemrich attorney/agent of record on behalf of herself.

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

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

Telephone inquiries concerning this decision should be directed to Charles Smoot at 571-272-3299.

David Bucci
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MORGAN & FINNEGAN LLP
3 WORLD FINANCIAL CENTER
NEW YORK, NY 10281-2101

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MAR 28 2008

OFFICE OF PETITIONS

In re Application of :
Takashi Hanamoto :
Application No. 11/044,701 : ON PETITION
Filed: January 27, 2005 :
Attorney Docket No. 1232-5591

This is a decision on the petition, filed March 25, 2008 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on February 14, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2628 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

---

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

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

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OCT 06 2008

OFFICE OF PETITIONS

In re Patent No. 7,380,253
Application No. 11/044,702
Filed: January 26, 2005
Issued: May 27, 2008
Attorney Docket No. 16869S-140900US

ON PETITION

This is a decision on the petition filed July 25, 2008, 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**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Additionally, the $130.00 surcharge will be charged to petitioner's deposit account as authorized.

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.

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LAW OFFICE OF DUANE S. KOBAYASHI
1325 MURRAY DOWNS WAY
RESTON, VA 20194

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NOV 0 4 2005

OFFICE OF PETITIONS

In re Application of :
Brosius et al. :
Application No. 11/044,708 :
Filed: January 28, 2005 :
Attorney Docket No. SBTZ.0060005 :
For: System and Method for Dual-Mode :
Location Determination :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed August 5, 2005.

The petition is **DISMISSED**.

The merits of a petition cannot be considered prior to the full payment of the petition fee. The current fee for a petition under 37 CFR 1.47 is $200. Petitioner paid $130. Therefore, an additional $70 must be submitted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

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

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

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

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

If a request for reconsideration is filed, and a decision on the new petition is not received within three months, petitioner may wish to call the number below to check on the status of the renewed petition.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

LAW OFFICE OF DUANE S. KOBAYASHI
1325 MURRAY DOWNS WAY
RESTON, VA 20194

COPY MAILED

MAR 1 0 2006

OFFICE OF PETITIONS

In re Application of :
Brosius et al. :
Application No. 11/044,708 :
Filed: January 28, 2005 :
Attorney Docket No. SBTZ.0060005 :
For: System and Method for Dual-Mode :
Location Determination :

Decision Refusing to Accord
Status Under 37 CFR 1.47(a)

This is a decision on the petition under 37 CFR 1.47(a), filed January 4, 2006.

The petition is **DISMISSED**.

A grantable petition under 37 CFR 1.47(a) requires proof that the non-signing inventor cannot be found or reached after diligent effort or that the inventor refuses to sign after having been presented with the application papers.

When a petition alleges and inventor has refused, an accompanying affidavit or declaration must fully discuss the refusal and the circumstances of the refusal. When there is an express oral refusal, that fact along with the time and place of the refusal must be stated in the affidavit or declaration. When there is an express written refusal, a copy of the document evidencing that refusal must be made part of the affidavit or declaration. Whenever a non-signing inventor gives a reason for refusing to sign the application oath or declaration, that reason should be stated in an affidavit or declaration.

Attorney Kobayashi states, "In my subsequent contact with Mr. Kilfeather, Mr. Kilfeather refused to sign the inventor declaration." The petition does not discuss how many subsequent conversations were held with Kilfeather or the dates or the conversations. Additional details of the refusal should be supplied.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the current non-signing inventor(s). **Failure to respond will result in abandonment of the application.**

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

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

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

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

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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LAW OFFICE OF DUANE S. KOBAYASHI
1325 MURRAY DOWNS WAY
RESTON, VA 20194

COPY MAILED
JUL 20 2006
OFFICE OF PETITIONS

In re Application of :
Brosius et al. :
Application No. 11/044,708 :
Filed: January 28, 2005 :
Attorney Docket No. SBTZ.0060005 :
For: System and Method for Dual-Mode :
Location Determination :

Decision According
Status Under 37 CFR 1.47(a)

This is a decision on the renewed petition under 37 CFR 1.47(a), filed May 15, 2006.

The petition is **granted**.

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

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

The Office of Initial Patent Examination will be informed of the instant decision so that it may continue to prepare the application for examination.

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

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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WOLF GREENFIELD (Microsoft Corporation)
C/O WOLF, GREENFIELD & SACKS, P.C.
600 ATLANTIC AVENUE
BOSTON, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Andrew J. Fuller	: DECISION ON REQUEST FOR
Patent Number	: 7634734	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,713	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET NY 11791

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DEC 0 8 2008

In re Application of
Marcel Motard
Application No. 11/044,719
Filed: January 28, 2005
Attorney Docket No: **903-249**

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3) filed April 30, 2008, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of prior-filed non-provisional applications 10/765,082 and 10/765,083.

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.

In response to the non-Final Office Action mailed October 31, 2007, the instant petition and three month extension of time request is filed to claim the benefit of the prior filed applications noted in the amendment filed April 30, 2008.

All 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 Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2854 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed applications.

Anthony Knight
Supervisor
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/044,719	01/28/2005	2854	1580	903-249	21	5

CONFIRMATION NO. 6440

CORRECTED FILING RECEIPT

23869
HOFFMANN & BARON, LLP
6900 JERICHO TURNPIKE
SYOSSET, NY 11791

OC000000033320951

Date Mailed: 11/26/2008

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please 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)

Marcel Motard, Laval, CANADA;

Assignment For Published Patent Application

RDP MARATHON INC.

Power of Attorney: The patent practitioners associated with Customer Number 23869

Domestic Priority data as claimed by applicant

This application is a CIP of 10/765,082 01/28/2004 PAT 7,270,057
and is a CIP of 10/765,083 01/28/2004 PAT 7,011,022

Foreign Applications

If Required, Foreign Filing License Granted: 03/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/044,719**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Printing unit convertible between at least two printing modes

Preliminary Class

101

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).

DATE 9/22/07

APPLICATION NUMBER 11/044721

DOC CODE PetDec

DOC DATE

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

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SEP 2 4 2007

OFFICE OF PETITIONS

In re Application of

Harald Seidl, et al.
Application No. 11/044,721
Filed: January 28, 2005
Attorney Docket No. 543822011800

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 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 request cannot be approved because there remains less than 30 (thirty days) between the date of this decision and the maximum extendable time period for filing a response to the Office action mailed on April 17, 2007.

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: GERO G. MCCLELLAN
PATTERSON & SHERIDAN, LLP
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

UNITED STATES PATENT AND TRADEMARK OFFICE

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

GERO G. MCCLELLAN / INFINEON TECHNOLOGIES
PATTERSON & SHERIDAN, LLP
3040 POST OAK BLVD.
SUITE 1500
HOUSTON TX 77056

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AUG 20 2008

In re Application of	:	
Harald Seidl, et al.	:	
Application No. 11/044,721	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 1525.030536	:	

This is a decision on the petition, filed January 29, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

This application was held abandoned for failure to timely respond to the Office action of April 17, 2007, which set a one (1) month shortened statutory period for reply. A reply was due on or before May 17, 2007.

Petitioner states that a reply was in fact timely filed. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on May 3, 2007 of, *inter alia,* Response to the Restriction Requirement (without Traverse) (2 pages). A copy of the previously submitted reply accompanies the petition.

The petition is **GRANTED**.

The Response to the Restriction Requirement (without Traverse) (2 pages) acknowledged as having been received in the USPTO on May 3, 2007 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the Response to the Restriction Requirement (without Traverse) (2 pages) was timely received in the USPTO but lost after receipt thereof.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

The copy of the reply supplied with the petition will be accepted in place of the reply shown to have been received by the USPTO on January 29, 2008.

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

This application is being referred to Technology Center AU 2812 for appropriate action in the normal course of business on the reply received with petition.

Carl Friedman
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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EDELL, SHAPIRO & FINNAN, LLC
1901 RESEARCH BOULEVARD
SUITE 400
ROCKVILLE, MD 20850

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MAY 22 2007

OFFICE OF PETITIONS

In re Patent No. 7,083,990	:	
Issue Date: August 1, 2006	:	
Application No. 11/044,729	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 0928.0174C	:	

This is a decision on the petition filed December 6, 2006, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3204. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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JJGJr: 01-06

Paper No: __

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JAN 27 2006

OFFICE OF PETITIONS

MOTOROLA, INC.
1303 EAST ALGONQUIN ROAD
IL01/3RD
SCHAUMBURG IL 60196

In re Application of	:	
Lee, et al.	:	
Application No. 11/044,738	:	DECISION ON PETITION
Filed: 26 January, 2005	:	
Attorney Docket No.: CML02197E	:	

This is a decision on the petition under 37 C.F.R. §1.53 and considered as well under 37 C.F.R. §1.10(d)), filed on 15 November, 2005, and seeking for the above-identified application a filing date of 26 January, 2005, rather than the presently accorded filing date of 27 January, 2005.

The petition is **GRANTED**.

NOTE: **Petitioner is reminded that, under 37 C.F.R. §1.10, Petitioner bears the responsibility of retaining and submitting a copy of the US Postal Service (USPS) Express Mail Label and submitting evidence of correlation of the label number with the transmittal of the application in question.**

BACKGROUND AND ANALYSIS

The starting point of the discussion are the controlling regulations at 37 C.F.R. §1.10.[1]

---

[1] The regulations at 37 C.F.R. §1.10 provide, in pertinent part:
§ 1.10 Filing of papers and fees by "Express Mail."
(a) Any correspondence received by the Patent and Trademark Office (Office) that was delivered by the "Express Mail Post Office to

The record reflects that:

- the instant application, averred to have been transmitted the package bearing US Postal Service (USPS) Express Mail Label No. EV600325224US, was received and given by the Office a filing date of 27 January, 2005;

- when the instant petition was filed on 15 November, 2005, Petitioner failed to provide (as specified by the provisions of 37 C.F.R. §1.10), *inter alia*, (a) a copy of the USPS Express Mail label with the hand-written "date in" and/or a USPS date stamp on the face of the label, and (b) a copy of the transmittal bearing the USPS Express Mail Label No. EV600325224US–Petitioner did provide, however, a copy of the USPS Track & Confirm document for USPS Express Mail Label No. EV600325224US retrieved from USPS internet website;

- further, a review of the file record evidences that the transmittal for the instant application bears the USPS Express Mail Label No. EV600325224US;

- the USPS Track & Confirm document for USPS Express Mail Label No. EV600325224US evidences that the package bearing that number and averred to contain the instant application was "Accept[ed by the USPS], January 26, 2005, 5:00 p.m., ZIP Code 60198."

Addressee" service of the United States Postal Service (USPS) will be considered filed in the Office on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the Office receipt date as the filing date. See § 1.6(a).

* * *

(b) Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked. The paper(s) or fee(s) that constitute the correspondence should also include the "Express Mail" mailing label number thereon. See paragraphs (c), (d) and (e) of this section.

* * *

(d) Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:

(1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;

(2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

* * *

(f) The Office may require additional evidence to determine if the correspondence was deposited as "Express Mail" with the USPS on the date in question. (Emphasis supplied.) [48 Fed. Reg. 2708, Jan. 20, 1983, added effective Feb. 27, 1983; 48 Fed. Reg. 4285, Jan. 31, 1983, paras. (a) & (c), 49 Fed. Reg. 552, Jan. 4, 1984, effective Apr. 1, 1984; paras. (a)-(c) revised and paras. (d) - (f) added, 61 Fed. Reg. 56439, Nov. 1, 1996, effective Dec. 2, 1996; paras. (d) & (e) revised, 62 Fed. Reg. 53131, Oct. 10, 1997, effective Dec. 1, 1997]

Accordingly, the petition hereby is **granted**.

The petition fee is not waived because Petitioner has not evidenced that the error was that of the Office, and the fee is charged as authorized. to Deposit Account 50-2117.

The instant file is released to OIPE to correct the filing date so as to accord to the instant application a filing date of 26 January, 2005, and to mail to Petitioner a corrected filing receipt reflecting a filing date of 26 January, 2005.

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

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

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United States Patent and Trademark Office
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XILINX, INC
ATTN: LEGAL DEPARTMENT
2100 LOGIC DR
SAN JOSE, CA 95124

Mail Date: 04/21/2010

Applicant	: Scott J. Campbell	: DECISION ON REQUEST FOR
Patent Number	: 7653677	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,744	: 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 **1401** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

Munck Carter/NSC
P.O. Drawer 800889
Dallas, TX 75380

In re Application of	:	
Kumar et al.	:	
Application No. 11/044,748	:	LETTER REGARDING
Filed: January 27, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. P06153	:	

This letter is in response to the "Good Faith and Candor Letter Regarding Patent Term Adjustment" filed May 22, 2009. Pursuant to applicants' duty of good faith and candor to the Office, applicants request the determination of patent term adjustment under 35 U.S.C. 154(b) be reviewed for accuracy.

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

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is 80 days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 26, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated the patent term adjustment to date is 339 days.

Applicants indicate an adjustment of 259 days for Office delay resulting from the issuance of a decision on appeal appears to be incorrect.

The Office's PALM screen, prior to correction, indicated the patent term adjustment should be increased by 259 days because the Office failed to issue a response, in the form of a decision by the Board of Appeals and Interferences, within four months of applicants filing a reply brief on December 3, 2007. However, neither statute nor regulation provides for an increase in patent term when the Office fails to issue a Board decision within four months of the date a reply brief is filed. Therefore, the patent term adjustment should not have been increase by 259 days due to the December 18, 2008 Board decision.

The period of adjustment of 259 days will be removed.

In view of the preceding discussion, the correct patent term adjustment at the time of mailing of the notice of allowance is 80 days which is 92 days of Office delay reduced by 12 days of applicant delay.

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

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

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

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen

Day : Monday
Date: 7/27/2009

PALM INTRANET

Time: 10:23:09

PTA Calculations for Application: 11/044748			
Application Filing Date:	01/27/2005	PTO Delay (PTO):	351
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	12
Post-Issue Petitions:	0	Total PTA (days):	80
PTO Delay Adjustment:	-259		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
62	07/27/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		259	
53	02/26/2009	MAIL NOTICE OF ALLOWANCE			
52	02/25/2009	ISSUE REVISION COMPLETED			
51	02/25/2009	DOCUMENT VERIFICATION			
50	02/25/2009	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
49	02/25/2009	NOTICE OF ALLOWABILITY			
48	12/18/2008	MAIL BPAI DECISION ON APPEAL - AFFIRMED	259		35
47	12/18/2008	BPAI DECISION - EXAMINER AFFIRMED			
46	11/25/2008	CORRESPONDENCE ADDRESS CHANGE			
45	09/17/2008	DOCKETING NOTICE MAILED TO APPELLANT			
44	09/17/2008	ASSIGNMENT OF APPEAL NUMBER			
43	08/18/2008	APPEAL AWAITING BPAI DOCKETING			
42	07/31/2008	MAIL REPLY BRIEF NOTED BY EXAMINER			
41	07/30/2008	REPLY BRIEF NOTED BY EXAMINER			
40	07/16/2008	ORDER RETURNING UNDOCKETED APPEAL TO THE EXAMINER			
39	03/10/2008	APPEAL AWAITING BPAI DOCKETING			
38	12/19/2007	MAIL REPLY BRIEF NOTED BY EXAMINER			
37	12/18/2007	REPLY BRIEF NOTED BY EXAMINER			
36	12/13/2007	DATE FORWARDED TO EXAMINER			
35	12/03/2007	REPLY BRIEF FILED			
34	10/23/2007	EXAM. ANS. REVIEW COMPLETE			
33	09/28/2007	MAIL EXAMINER'S ANSWER	11		29
32	09/26/2007	EXAMINER'S ANSWER TO APPEAL BRIEF			
31	06/26/2007	APPEAL BRIEF REVIEW COMPLETE			
30	06/26/2007	DATE FORWARDED TO EXAMINER			

29	05/17/2007	APPEAL BRIEF FILED			
28	03/12/2007	NOTICE OF APPEAL FILED		6	23
27	02/16/2007	MAIL ADVISORY ACTION (PTOL - 303)			
26	02/15/2007	ADVISORY ACTION (PTOL-303)			
25	02/10/2007	DATE FORWARDED TO EXAMINER			
24	02/06/2007	AMENDMENT AFTER FINAL REJECTION			
23	12/06/2006	MAIL FINAL REJECTION (PTOL - 326)			
22	12/04/2006	FINAL REJECTION			
21	09/29/2006	DATE FORWARDED TO EXAMINER			
20	09/22/2006	RESPONSE AFTER NON-FINAL ACTION		6	19
19	06/16/2006	MAIL NON-FINAL REJECTION	81		-1
18	06/14/2006	NON-FINAL REJECTION			
17	04/24/2006	CASE DOCKETED TO EXAMINER IN GAU			
16	11/14/2005	RESCIND NONPUBLICATION REQUEST FOR PRE GRANT PUBLICATION			
15	06/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
14	06/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
13	06/09/2005	NEW OR ADDITIONAL DRAWING FILED			
12	06/09/2005	INCOMING LETTER PERTAINING TO THE DRAWINGS			
11	03/07/2005	APPLICATION RETURN FROM OIPE			
10	03/08/2005	APPLICATION IS NOW COMPLETE			
9	03/07/2005	APPLICATION RETURN TO OIPE			
8	03/07/2005	APPLICATION RETURN FROM OIPE			
7	03/07/2005	APPLICATION RETURN TO OIPE			
6	03/07/2005	APPLICATION DISPATCHED FROM OIPE			
5	03/08/2005	APPLICATION IS NOW COMPLETE			
4	01/27/2005	PGPUBS NONPUB REQUEST			
3	02/19/2005	CLEARED BY OIPE CSR			
2	02/13/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/27/2005	INITIAL EXAM TEAM NN			

Search Another: Application# Search

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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

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

Mail Date: 04/20/2010

Applicant	: Caba Moldvai	: DECISION ON REQUEST FOR
Patent Number	: 7573533	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,774	: OF WYETH
Filed	: 01/26/2005	:
		:

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

Mail Date: 05/17/2010

Applicant : Caba Moldvai
Patent Number : 7573533
Issue Date : 08/11/2009
Application No : 11/044,774
Filed : 01/26/2005

: 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 **1178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate 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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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED

APR 07 2010

OFFICE OF PETITIONS

In re Patent No. 7,625,758	: DECISION ON REQUEST FOR
BERKELMAN	: RECONSIDERATION OF
Issue Date: December 1, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/044,798	: AND
Filed: January 26, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 002558-071300US	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 18, 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 three hundred forty-six (1346) 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 three hundred forty-six (1346) days is **GRANTED**.

The Office acknowledges the 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 three hundred forty-six (1346) days**.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,625,758 B2

DATED : Dec. 1, 2009 **DRAFT**

INVENTOR(S) : BERKELMAN

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 815 days

Delete the phrase "by 815 days" and insert – by 1346 days--

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TYCO Healthcare Group LP
Attn: IP Legal
5920 Longbow Drive
Mail Stop A36
Boulder, CO 80301-3299

COPY MAILED
JAN 22 2010

In re Application of	:	
Wham, et al.	:	
Application No. 11/044,805	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. **2945**	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed June 30, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional application set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional application set forth in the amendment filed concurrently with the instant petition.

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

The petition under 37 CFR 1.78(a)(6) is also **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the periods specified in 37 CFR 1.78(a)(5)(ii) and 37 CFR 1.78(a)(2)(ii).

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 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)

(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 petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) lack item (1) above.

The reference to add the prior-filed applications on page one following the first sentence of the specification is not acceptable as drafted since it improperly incorporates by reference several of the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 USC § 119 and 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 USC § 119 and 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See* Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b). The amendment submitted on renewed petition cannot incorporate by reference an application not incorporated by reference on filing of the application.

Before the petition under 37 CFR § 1.78(a)(3) and 37 CFR 1.78(a)(6) can be granted, a renewed petition and either an Application Data Sheet signed in compliance with 37 CFR § 1.33(b) or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter is required.

The petition fee of $1,410.00 will be charged to deposit account 21-0550.

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being sent to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

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

By mail: Commissioner for Patents
United States Patent and Trademark Office
Box 1450
Alexandria, VA 22313-1450

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

Telephone inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

Anthony Knight
Supervisor
Office of Petitions

cc:
Stephen B. Perkins
Covidien
60 Middletown Avenue
North Haven, CT 06473

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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TYCO Healthcare Group LP
Attn: IP Legal
5920 Longbow Drive
Mail Stop A36
Boulder CO 80301-3299

MAILED
JUN 21 2010
OFFICE OF PETITIONS

In re Application of :
Wham, et al. :
Application No. 11/044,805 : ON PETITION
Filed: January 27, 2005 :
Attorney Docket No. 2945

This is a decision on the "Renewed Petition Pursuant to 37 CFR 1.78", filed February 5, 2010, which is being treated as a renewed petition under 37 CFR 1.78(a)(3) to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed non-provisional applications set forth in the amendment filed concurrently with the instant petition. The petition will also be treated as a renewed petition under 37 CFR 1.78(a)(6) to accept the unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority of the prior-filed provisional applications set forth in the amendment filed concurrently with the instant petition.

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

The petition under 37 CFR 1.78(a)(6) is also **GRANTED**.

TREATMENT 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. 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.

It is noted that 37 CFR § 1.78(a)(3) requires a statement that the entire delay between the date the claim was due under 37 CFR § 1.78(a)(2)(ii) and the date the claim was filed was unintentional. Since the

statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The instant non-provisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed application is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed applications, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 120. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

TREATMENT UNDER 37 CFR 1.78(a)(6)

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(6) is only applicable to those applications filed on, or after, November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(5)(ii). In addition, the petition under 37 CFR 1.78(a)(6) must be accompanied by:

1. the reference required by 35 USC 119(e) and paragraph (a)(5) of this section to the prior-filed provisional 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 paragraph (a)(5)(ii) of this section and the date the claim was filed was unintentional.

It is noted that 37 CFR § 1.78(a)(6) requires 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. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications is submitted after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Also, the reference to the prior filed application, found in the amendment to the first page of the specification, was submitted during the pendency of the instant nonprovisional application for which the claim for benefit of priority is sought. See 35 U.S.C. § 119(e). Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(e) to the prior-filed provisional applications 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 applications under 37 CFR 1.78(a)(3) and 37 CFR 1.78(a)(6) should not be construed as meaning the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) and 35 U.S.C.§ 119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon.

Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

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

The address cited on the petition differs from the address of record. Although a courtesy copy of this decision is being sent to the address cited on the petition, all future correspondence will be mailed solely to the address of record until appropriate written instructions to the contrary are received.

Any inquiries concerning this decision may be directed to Kenya A. McLaughlin, Petitions Attorney, at (571) 272-3222.

This matter is being referred to Technology Center 3700, Art Unit 3739for further processing, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C.§ § 120 and 119(e) to the prior-filed nonprovisional and provisional applications.

Chris Bottorff
Supervisor
Office of Petitions

Enclosure: Corrected Filing Receipt

cc:
Edward C. Meagher
Carter, DeLuca, Farrell & Schmidt, LLP
445 Broad Hollow Road
Suite 420
Melville, NY 11747

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/044,805	01/27/2005	3739	2280	2945	42	3

CONFIRMATION NO. 1822

CORRECTED FILING RECEIPT

OC000000042049209

90039
TYCO Healthcare Group LP
Attn: IP Legal
5920 Longbow Drive
Mail Stop A36
Boulder, CO 80301-3299

Date Mailed: 06/11/2010

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

Applicant(s)

Robert H. Wham, Boulder, CO;
Chelsea Shields, Boulder, CO;
Philip M. Tetzlaff, Lafayette, CO;
Jeremy S. James, Westminster, CO;

Power of Attorney: The patent practitioners associated with Customer Number 50855

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/539,804 01/27/2004
and is a CIP of 10/427,832 05/01/2003 PAT 7,137,980
which is a CIP of 10/073,761 02/11/2002 PAT 6,796,981
which is a CIP of 09/408,944 09/30/1999 PAT 6,398,779
which claims benefit of 60/105,417 10/23/1998

Foreign Applications

If Required, Foreign Filing License Granted: 03/28/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/044,805**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method and system for controlling output of RF medical generator

Preliminary Class

606

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

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

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

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

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

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

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

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

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

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

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

NOT GRANTED

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

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William S. Frommer, Esq.
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	: 7602442	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,812	: 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 **1292** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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DUANE MORRIS LLP – PHILADELPHIA
IP DEPARTMENT
30 SOUTH 17TH STREET
PHILADELPHIA, PA 19103-4196

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In re Application of :
Bor-zen Tien et al :
Application No. 11/044,819 : DECISION ON PETITION
Filed: January 26, 2005 :
Attorney Docket No. 2001.1072/1085.90033 :

This is a decision on the petition, filed May 8, 2009, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely pay the issue and publication fees on or before March 29, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed December 29, 2008.

Office record show a timely reply was mailed via certificate of mailing or transmission on March 24, 2009, which includes the following papers: Request for Continued Examination (RCE); Information Disclosure Statement; and Transmittal Letter. Petitioner has submitted a copy of the previously mailed correspondence.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Notice of Allowance of December 29, 2008 is hereby withdrawn and the application restored to pending status.

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

This application is being referred to Technology Center AU 2814 for appropriate action in the normal course of business on the RCE mailed via certificate of mailing or transmission on March 24, 2009.

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Duane Morris LLP
101 West Broadway, Suite 900
San Diego, CA 92101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE 3/10/09 Paper No.: —

TO SPE OF : ART UNIT 2117

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/644826 Patent No.: 7278024B2

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: _____

/Kevin L Ellis/ 1/11/09 — **SPE**

2117 — **Art Unit**

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

PAGE 2/2 * RCVD AT 1/11/2010 9:26:37 AM [Eastern Standard Time] * SVR:USPTO-EFXRF-5/0 * DNIS:2709892 * CSID:USPTO * DURATION (mm-ss):00-00

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ERIC ROBINSON
PMB 955
21010 SOUTHBANK ST.
POTOMAC FALLS VA 20165

MAILED

JUL 24 2009

OFFICE OF PETITIONS

In re Application of	:	
Jun Koyama, et al.	:	
Application No. 11/044,828	:	DECISION GRANTING PETITION
Filed: January 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 0756-7470	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 21, 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 June 22, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2876 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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

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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

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OFFICE OF PETITIONS

In re Application of	:	
Gregg L. Sheddy et al	:	
Application No. 11/044,854	:	ON PETITION
Filed: November 27, 2005	:	
Attorney Docket No. TN-3305A	:	

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

The petition is **DISMISSED.**

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

The above-identified application became abandoned for failure to submit the Issue fee and publication fee in a timely manner in reply to the Notice of Allowance mailed August 10, 2007, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on November 11, 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(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The petition under 37 CFR 1.137(b) filed January 4, 2008 was not signed; therefore, the petition is dismissed.

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

By mail:	Mail Stop PETITION Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By facsimile:	(571) 273-8300 ATTN: Office of Petitions

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

Irvin Dingle
Petitions Examiner
Office of Petitions

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THE BLACK & DECKER CORPORATION
701 EAST JOPPA ROAD, TW199
TOWSON, MD 21286

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OFFICE OF PETITIONS

ON PETITION

In re Application of
Gregg L. Sheddy et al
Application No. 11/044,854
Filed: January 27, 2005
Attorney Docket No. TN-3305A

This is a decision on the renewed petition filed June 6, 2008 under 37 CFR 1.137(b), 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 payment of the Issue fee and Publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue fee is accepted as having been unintentionally delayed.

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

This matter is being referred to the Office of Data Management for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No.

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E.
HARMONY ROAD
INTELLECTUAL PROPERTY
ADMINISTRATION
FORT COLLINS CO 80527-2400

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
Simske et al. :
Application No. 11/044,860 : DECISION ON PETITION
Filed: January 26, 2005 :
Atty Docket No. 200314471-2 :

This is a decision on the PETITION FOR WITHDRAWAL OF ABANDONMENT filed December 14, 2005. Receipt of the status letter filed April 18, 2006 is acknowledged. (It is noted that the status letter indicates that a PETITION TO REVIVE was filed on December 14, 2005. However, no such petition was received. Only the instant PETITION FOR WITHDRAWAL OF ABANDONMENT was received).

The above-identified application became abandoned for failure to file a reply to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed March 7, 2005. This Notice set a two-month period for reply, with extensions of time obtainable under § 1.136(a). No reply considered received and no extension of time obtained, the application became abandoned on May 8, 2005. A courtesy Notice of Abandonment was mailed on November 8, 2005.

On instant petition, petitioner submits a copy of their response as they maintain it was timely filed and a copy of their date-stamped return postcard dated March 31, 2005.

Petitioner's evidence has been considered, but not found persuasive that withdrawal of the holding of abandonment is warranted. A review of the response and of the postcard confirms that applicants erred in filing the response in

provisional application No. 60/292,647. All of the indicia of where the response was directed on both the response and the postcard (including the application number, attorney docket number and filing date) identified the provisional application. Furthermore, at the time of the filing the provisional application filed July 30, 2004, to which this application claims priority, was pending (though as with all provisional applications not subject to examination). Thus, applicants did not timely file a response in this application. Under the circumstances, withdrawal of the holding of abandonment is not warranted.

The petition under § 1.181 is **DISMISSED**.

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

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

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

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

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

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

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219. To facilitate action on any further petition, petitioners may telephone the undersigned

to advise of the filing. Given the delay in initial action, the undersigned will act on any follow-up petition as soon as possible after receipt.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

In re Application of :
Simske et al. :
Application No. 11/044,860 : DECISION ON PETITION
Filed: January 26, 2005 :
Atty Docket No. 200314471-2 :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed June 14, 2007.

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

The above-identified application became abandoned effective May 8,2005 for failure to file a reply to the NOTICE TO FILE CORRECTED APPLICATION PAPERS mailed March 7, 2005. A courtesy Notice of Abandonment was mailed on November 8, 2005.

By decision mailed April 18, 2007, the initial petition filed December 14, 2005 was dismissed. It was concluded that withdrawal of the holding of abandonment was not warranted as applicants erred in filing the response in their provisional application, No. 60/292,647.

Petitioner has now satisfied the requirements of 37 CFR 1.137(b). The petition included the required reply in the form of drawings; authorization to charge the petition fee to a Deposit Account; and the required statement of unintentional delay. Moreover, on previous petition filed December 14, 2005, applicants set forth the specific circumstances of the

abandonment. These facts support a conclusion that the entire delay was unintentional. No terminal disclaimer is required.

The Office of Patent Application Processing has been advised of this decision. The application is, thereby, being forwarded to the Office of Patent Application Processing for completion of pre-examination processing, including processing of the response, drawings, submitted on petition filed December 14, 2005 (and resubmitted on renewed petition filed June 14, 2007).

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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PATENT DEPARTMENT
98 SAN JACINTO BLVD., SUITE 1500
AUSTIN TX 78701-4039

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OFFICE OF PETITIONS

In re Application of	:	
Robert Harrod	:	DECISION ON PETITION
Application No. 11/044,865	:	
Filed: January 27, 2005	:	
Attorney Docket No. 021791.0115	:	

This is a decision on the petition under 37 CFR 1.10, filed February 17, 2005, requesting that the above-identified application be accorded a filing date of January 27, 2005, rather than the filing date of January 28, 2005.

Petitioner alleges that the application was deposited in Express Mail service on January 27, 2005. In support of the allegation, the petition is accompanied by a copy of Express Mail label No. EV351253775. Although the date-in is January 28, 2005, the Express Mail label contains a United States Postal Service stamp of January 27, 2005. Additionally, petitioner submitted a United States Postal Service Track & Confirm receipt, indicating that the USPS accepted a package, bearing Express Mail label No. EV351253775, on January 27, 2005, at 5:16 PM, in Austin TX 78701. The same Express Mail label number was placed on the original application papers located in the official file.

In view of the above, the petition is **granted**. No petition fee is necessary.

The application has undergone pre-exam processing and a corrected filing receipt was mailed on May 17, 2005, indicating that the application was accorded a filing date of January 27, 2005.

This matter will be referred to Technology Center Art Unit 1642 for examination in due course.

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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Director's Office
Group 3700

In re PATENT APPLICATION of:
PINCHAS SHALEV
Application No. 11/044,881
Filed: January 26, 2005
For: Motion Controlled Electric Shaver

DECISION ON PETITION

This is a decision on the petition filed on November 8, 2006 by which Petitioner requests reconsideration and withdrawal of the restriction requirement rendered in the Final Office action dated June 16, 2006, and that a new non-final Office action be required to include the examination of withdrawn claims 12-16. Claims 1-11 were elected for prosecution. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is denied.

A review of the record reveals that a restriction requirement was made between two disclosed and claimed related inventions: 1) a hair cutting apparatus and 2) a method of using a hair cutting apparatus. Claims 1-11 are drawn to the hair cutting apparatus, and claims 12-16 are drawn to the method of using a hair cutting apparatus.

In judging the propriety of the restriction requirement, the related inventions, as claimed, must be shown to be distinct. See MPEP §802.01. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product. See MPEP §806.05(h).

In the instant application, the distinctness between the claimed inventions was justified in that the product as claimed can be used in a process such as soldering two devices together or cutting/shaping wax elements.

Applicant traverses the rationale set forth above by basically stating that " Regarding using the present product as claimed for soldering, it is noted that, more often than not, soldering is performed at a point. Use of the present invention, which includes a motion detector, for soldering would not permit such a use since the heating element would be cool without movement of the device with respect to the work piece." Applicant postulates the same rationale with respect to using the claimed product for cutting or shaping wax elements.

However, such traversal is not persuasive especially in view of the prior art applied against the claims of the elected invention. The product as claimed can be used for soldering as, for example, disclosed in the Hattori reference (USPN 6,111,222). It is noted that the control mechanism of Hattori, which renders the control of Petitioner's product as claimed unpatentable, does not interfere with the soldering process but merely acts to lower the heat generated by the soldering iron when a period of inactivity is exceeded. The same rationale is applicable to a wax shaping process.

Furthermore, as part of any restriction requirement, the search and examination for each of these two claimed inventions must be considered a serious burden on the examiner if restriction were not required. See MPEP §803 and 808.02. Aside from the different classifications indicated in the requirement, the search for the product would involve areas such as soldering irons, etc., which are diverse from the search for the method of cutting hair and vice-versa.

It is noted, for applicant's benefit, that the restriction requirement remained silent of notifying applicant of potential rejoinder. See MPEP §821.04. The following paragraph should have been incorporated into the restriction requirement:

¶ *8.21.04 Notice of Potential Rejoinder of Process Claims in Ochiai/Brouwer Situation*

The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

For the reasons outlined above, the restriction requirement promulgated in the Final Office action dated June 16, 2006 is in accordance with proper Office procedure. Accordingly, the Office action stands.

Applicant is forwarding the application to the Supervisory Patent Examiner of Art Unit 3742 who will have the examiner respond to any further responses to the Final Office action.

PETITION DENIED.

Karen M. Young

Karen Young, Director
Technology Center 3700

December 13, 2006

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2/12/09

In re Application of:
SHALEV, PINCHAS et al
Serial No.: 11/044,881
Filed: Jan. 26, 2005
Docket: 127/04374
Title: MOTION CONTROLLED ELECTRIC SHAVER

DECISION ON PETITION TO ENTER AMENDMENT AFTER FINAL

This is a decision on the petition filed on February 2, 2009 to enter the reply brief and amendment filed on May 30, 2008 under 37 CFR § 41.37. The petition is being considered pursuant to 37 CFR 1.181 and no fee therefore is required. The petition fee $130.00 paid will be refunded upon request.

The petition is **DISMISSED**.

In the petition, petitioner requests a review of the examiner's refusal to enter the reply brief and the amendment after appeal filed on May 30, 2008 in the office actions of August 12, 2008 and December 2, 2008.

Analysis and Discussion

In the Office action of August 12, 2008, the examiner refused to enter the reply brief because the reply brief filed on May 30, 2008 is not in compliance with 37 CFR 41.41. The reply brief included a new or non-admitted amendment. The examiner also stated in the Office action of Aug 12, 2008 that the newly amended dependent claims 2-7 in the amendment under 37 CFR 41.37 raise new issues requiring further search and/or consideration since the claims have never been dependent from the subject matter/limitations of claim 20. The examiner further stated that in essence by amending claim 8 independent form, the applicant omitted the limitations of claim 7. Claim 10 presents a new issue since the claim has never been dependent from the subject matter/limitations of claim 20. Claims 18 and 19 present a new issue(s) since the claims have never been dependent from the subject matter/limitations of claim 22. Finally, the examiner argued that claim 21 requires further consideration and/or new search because claim 21 now requires a new interpretation with respect to the consideration and inclusion of claim 22 in light of the combination of Peterson (U.S. Patent No. 2,231,219) in view of Hattori (U.S. Patent No. 6,111,222), as evidenced by Tse et al. (U.S. Patent No. 6,452,501).

In the petition, petitioner argues that the amendment after appeal was filed under 37 CFR § 41.33(2) which permits dependent claims be rewritten into independent form. The amendment of

May 30, 2008 contains no new issues. All of the limitations were previously present in the application. Petitioner also points out that the rules allow for amending an independent claim by adding limitations from a dependent claim. Finally, in the petition, petitioner also argues that if the amendment of May 30, 2008 is not entered, in the alternative the reply brief of May 30, 2008 should be entered because the reply brief contains alternative arguments applicable to both new claims and old claims.

In the Remarks of the amendment of May 30, 2008, the applicant indicated that independent claims 1and 17 were re-written to include the features of cancelled dependent claims 20 and 22, respectively. Claims 8, 9 and 21 have been rewritten in independent form to include the features of their parent claims. This is permissible under 37 CFR § 41.33(a) (2)[1]. However, a careful study of the amendment does not fully support such allegation. For example in this amendment, claim 1 was amended to add the limitations from the cancelled dependent claim 20. Without cancelling claims 2-7 and 10-16, this does not constitute rewriting dependent claim 20 in independent form. The scope of dependent claims 2-7 and 10-16 have been changed. The applicant should have placed all limitations of independent claim 1 combine with dependent claim 20 and leave independent claim 1 unamended. That would be considered as rewriting dependent claim 20 in independent form. With regard to amended claim 8, the limitation of claim 7 was omitted. This is a broadened claim 8. Claims 9 and 21 were properly re-written in independent form. Claim 17 suffers same defect as claim 1. Without cancelling claims 18-19, amendment to claim 17 does not constitute rewriting dependent claim 22 in independent form. The scope of dependent claims 18-19 have been changed. The applicant should have placed all limitations of independent claim 17 combine with dependent claim 22 and leave independent claim 17 unamended. Under the circumstances, at least the amendments to claims 1, 8 and 17 do not comply with 37 CFR § 41.33 because in this amendment the applicant did not properly placed dependent claims 8, 20 and 22 in independent form. Therefore, the examiner's refusal to enter the amendment after appeal filed on May 30, 2008 is proper under 37 CFR § 41.33.

With regard to the reply brief filed on May 30, 2008, a perusal of the reply brief reveals that there are numerous comments and arguments made directed to non-admitted amendment of May 30, 2008. It would be difficult to separate each part of the arguments directed to amended claims and/or unamended claims. As stated in 37 CFR § 41.41,[2] a reply brief shall not include any new or non-admitted amendment. In this case, the content of the reply brief of May 30, 2008 is clearly in contravention of 37 CFR 41.41(a) (2). Therefore, the examiner's refusal to enter the non-compliant the reply brief of May 30, 2008 is proper under 37 CFR 41.41(b).

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[1] 37 CFR § 41.33 Amendments and affidavits or other evidence after appeal. (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title. (b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted: (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or (2) To rewrite dependent claims into independent form.

[2] 37 CFR § 41.41 Reply brief. (a) (1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer. (2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal. (b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's refusal admitting the amendment after appeal and entry of reply brief filed Mar. 30, 2008 is proper.

The application is being forwarded to the Board of Appeals for further processing and docketing. 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 Yuen, Special Program Examiner, at (571) 272-4856.

The petition is dismissed.

Karen M. Young

Karen M. Young, Director
Technology Center 3700

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5/15/09

In re Application of:
SHALEV, PINCHAS et al
Serial No.: 11/044,881
Filed: Jan. 26, 2005
Docket: 127/04374
Title: MOTION CONTROLLED ELECTRIC SHAVER

DECISION ON PETITION TO ENTER AMENDMENT AFTER APPEAL BRIEF

This is a decision on the renewed petitions filed on April 6, 2009 and April 13, 2009 to enter the amendment filed on August 25, 2008 under 37 CFR § 41.37 and the reply brief filed on May 30, 2008.

The petition is DENIED.

In the renewed petitions, petitioner requests entry of the amendment after appeal filed on August 25, 2008 and the reply brief filed on May 30, 2008 with the arguments directed toward the amended claims; or, in case that the amendment of appeal of August 25, 2008 is not entered, entry of the reply brief filed on May 30, 2008 which should be considered to apply to the claims before the amendment.

The relevant portion of the record shows that:

1. After the Examiner's Answer was issued, on May 30, 2008, the appellant filed a reply brief and an amendment after appeal (hereinafter referred as first amendment after appeal).
2. On August 12, 2008, the examiner issued an Office action refusing to enter amendment after appeal of May 30, 2008 and the reply brief because the reply brief is not in compliance with 37 CFR 41.41. The reply brief of May 30, 2008 included a new or non-admitted amendment. The examiner also stated in the Office action of Aug 12, 2008 that the newly amended dependent claims 2-7 in the amendment under 37 CFR 41.37 raise new issues requiring further search and/or consideration since claims 2-7 have never been dependent from the subject matter or limitations of claim 20. The examiner further stated that in essence by amending claim 8 independent form, the applicant omitted the limitations of claim 7. Claim 10 presents a new issue since the claim has never been dependent from the subject matter or limitations of claim 20. Claims 18 and 19 present a new issue(s) since the claims have never been dependent from the subject matter/limitations of claim 22. Finally, the examiner argued that claim 21 requires further consideration and/or new search because claim 21 now requires a new interpretation with respect

to the consideration and inclusion of claim 22 in light of the combination of Peterson (U.S. Patent No. 2,231,219) in view of Hattori (U.S. Patent No. 6,111,222), as evidenced by Tse et al. (U.S. Patent No. 6,452,501).

3. In response, on August 25, 2008, the appellant filed a second amendment after appeal (hereinafter referred as second amendment after appeal). In this second amendment after appeal, the appellant re-instated the omitted limitations of claim 7 into claim 8. The remainder of the second amendment after appeal remains unchanged from the first amendment after appeal.

4. On December 2, 2008, the examiner issued an Office action again refusing to enter the second amendment after appeal filed on August 25, 2008 for the similar reasons as stated in the refusal to enter the first amendment after appeal. The examiner also refused to enter the reply brief of May 30, 2008.

5. On February 2, 2009, a petition was filed. Petitioner requested a review of the examiner's refusal to enter the reply brief of May 30, 2008 and the amendments after appeal filed on May 30, 2008 and August 25, 2008 in the office actions of August 12, 2008 and December 2, 2008. The petition was dismissed on February 12, 2009. In the decision, the first amendment after appeal filed on May 30, 2008 was specifically addressed. The Director agreed with the examiner's refusal to enter the reply brief and the first amendment after appeal filed on May 30, 2008.

6. On April 6, 2009 and April 13, 2009, the current renewed petitions for reconsideration of the previous decision mailed February 12, 2009 were filed. In the renewed petitions, petitioner requests the Director to reconsider the decision of February 12, 2009 and authorize entry of the reply brief filed on May 30, 2008, either as applying to the amended claims, in case the second amendment of appeal of August 25, 2008 is entered, or as applying to the unamended claims, in case that the amendment is not entered.

Analysis and Discussion

Since the renewed petition of April 6, 2009 is substantially same as the renewed petition filed on April 13, 2009, this decision will address the later filed renewed petition. On pages 2-4 of the renewed petition of April 13, 2009, petitioner argues that the second amendment after appeal of August 25, 2008 should be entered because the amendment was in full compliance with 37 CFR § 41.33[1] which permits dependent claims be rewritten into independent form. Petitioner explains that the second amendment after appeal filed on August 25, 2008 merely re-writes the dependent claims 8, 9, 17, 19, 20 and 21 in independent form. This is clearly permissible under 37 CFR 41.33. The undersigned is in agreement with petitioner regarding placing the dependent claims 8,

[1] § 41.33 Amendments and affidavits or other evidence after appeal. (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title. (b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted: (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or (2) To rewrite dependent claims into independent form. (c) All other amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i), 41.50(b)(1) and 41.50(c). (d) (1) An affidavit or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to § 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made. (2) All other affidavits or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i) and 41.50(b)(1)

9, 17, 19, 20 and 21 in independent form per se. The undersigned has no objection regarding placing the dependent claims 8, 9, 17, 20 and 21 in independent form if the other affected dependent claims 2-7, 10-11 and 18-19 are also cancelled in the second amendment after appeal filed on August 25, 2009. However, the amendment to place the dependent claim 20 in the newly amended independent form 1 has effectively cancelled the original independent claim 1 under appeal. This cancellation of original claim 1 does affect the scope of the dependent claims 2-7 and 10-11 because the dependent claims 2-7 and 10-11 were never dependent from the subject matter or limitations of claim 20 (now included in new independent claim 1). The change of scope in the dependent claims 2-7 and 10-11 does constitute new issues which were not considered by the examiner prior to the appeal. The amendment to claim 1 is impermissible under 37 CFR 41.33 (b) (1). The amendment placing the dependent claim 17 in independent form also has effectively amended the scope of the dependent claims 18 and 19 because the dependent claims 18-19 were never dependent from the subject matter or limitations of claim 22. The amendment to claim 17 is impermissible under 37 CFR 41.33 (b) (1) because the amended claim17 affects the scope of the dependent claims 18-19. It is undisputed that the scope of the dependent claims 2-7, 10-11 and 18-19 has been changed. It is also noted that petitioner never denies the scope of the dependent claims 2-7, 10-11 and 18-19 has been changed by the amendment to the claims 1 and 17. Therefore, the second amendment after appeal filed on August 25, 2008 does affect the scope of other pending claims 2-7, 10-11 and 18-19. The refusal to enter the second amendment after appeal of August 25, 2008 is proper under 37 CFR § 41.33(b) (1).

On pages 5-6 of the renewed petition filed on April 13, 2009, petitioner argues the reply brief of May 30, 2008 should be entered because the reply brief contains alternative arguments applicable to both new claims and old claims. Petitioner opines that it would not require any additional effort by the examiner or the Board to consider the reply brief in view of the unamended claims as evidenced by the marked up copy of the reply brief attached to the renewed petition of April 13, 2009. This line of arguments is not persuasive because the examiner and the Board would have to first discern which claims are amended and unamended. After the determination of what the amended claims are, then, the examiner and the Board must cross out or block off the amended claims in order to determine which arguments are applicable to the unamended claims. This is very burdensome and confusing. The arguments regarding to un-entered amended claims and original claims under appeal are not severable.

After a careful review of the reply brief filed on May 30, 2008, the reply brief undeniably referred to an un-entered amendment after appeal filed on May 30, 2008. The refusal to enter the amendment after appeal filed on May 30, 2008 was determined to be proper (see last decision mailed on February 2, 2009). Therefore, the reply brief of May 30, 2008 is not in compliance with 37 CFR § 41.41 (a) (2) and MPEP § 1208.

On page 6 of the renewed petition, petitioner also argues that the amendment after appeal filed on May 30, 2008 was on a separate paper. No amendment was included in the reply brief of May 30, 2008. Therefore, the reply brief should have been entered. This line of arguments is also not persuasive because the reply brief of May 30, 2008 does include a claim appendix which listed

the un-entered claim amendment filed separately on May 30, 2008. This is clearly in contravention with 37 CFR § 37 CFR § 41.41(a) (2)[2].

As stated in 37 CFR § 41.41, a reply brief shall not include any new or non-admitted amendment. In this case, the contents regarding to the un-entered claims and the un-entered claim amendment appendix of the reply brief of May 30, 2008 are clearly proscribed by 37 CFR 41.41(a) (2). Therefore, the examiner's refusal to enter the non-compliant reply brief of May 30, 2008 is proper under 37 CFR 41.41(a) (2) and (b).

Conclusion

For the foregoing reasons, the relief requested by petitioner will not be granted. Specifically, the examiner's refusal in admitting the second amendment after appeal of August 25, 2008 and entry of reply brief filed May 30, 2008 is proper.

The application is being forwarded to the Board of Appeals for further processing and docketing. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner at (571) 272-4856.

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" and directed to the Office of the Deputy Commissioner for Patent Examination Policy at Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450. See MPEP 1002.02(b).

Accordingly, the petition is **denied.**

Karen M. Young, Director
Technology Center 3700

[2] 37 CFR § 41.41 Reply brief. (a) (1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer. (2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal. (b) A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

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OFFICE OF PETITIONS

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In re Application of	:	
Pinchas SHALEV et al.	:	
Application No. 11/044,881	:	ON PETITION
Filed: January 26, 2005	:	
Attorney Docket No.: 127/04374	:	

This is a decision on the petition, filed July 14, 2009, under 37 CFR 1.181(a)(3) requesting that the Director exercise his supervisory authority and overturn the decision of the Director, Technology Center 3700 (Technology Center Director), dated May 15, 2009, which refused to compel the entry of the reply brief filed May 30, 2008 and the amendment under 37 CFR 41.37 filed August 25, 2008.

The petition to overturn the decision of the Technology Center Director dated May 15, 2009 is **DENIED**[1].

BACKGROUND

On January 7, 2008 an Appeal Brief was filed.

On March 31, 2008 an Examiner's Answer was mailed.

On May 30, 2008 an amendment and a Reply Brief were filed.

On August 12, 2008 a Notice of Non-Entry of the amendment and the Reply Brief was mailed.

On August 25, 2008 an amendment and a Reply Brief was filed.

On December 2, 2008 a Notice of Non-Entry of the amendment and the Reply Brief was mailed.

On February 2, 2009 a petition requesting entry of the Reply Brief and amendment of May 30, 2008 was filed.

On February 12, 2009 a decision dismissing the petition was mailed.

On April 6, 2009 and April 13, 2009 petitions requesting entry of the amendment of August 25, 2008 and the Reply Brief of May 30, 2008 were filed.

On May 15, 2009 a decision denying the petitions of April 6, 2009 and April 13, 2009 was mailed.

The instant petition was filed July 14, 2009.

STATUTE, REGULATION, AND EXAMINING PROCEDURE

37 CFR 41.31 states:

> (c) An appeal, when taken, must be taken from the rejection of all claims under rejection which the applicant or owner proposes to contest. Questions relating to matters not affecting the merits of the invention may be required to be settled before an appeal can be considered.

37 CFR 41.33 states:

> (a) Amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date a brief is filed pursuant to § 41.37 may be admitted as provided in § 1.116 of this title.
> (b) Amendments filed on or after the date of filing a brief pursuant to § 41.37 may be admitted:
> (1) To cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or
> (2) To rewrite dependent claims into independent form.
> (c) All other amendments filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i), 41.50(b)(1) and 41.50(c).
> (d)(1) An affidavit or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) and prior to the date of filing a brief pursuant to § 41.37 may be admitted if the examiner determines that the affidavit or other evidence overcomes all rejections under appeal and that a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented has been made.

(2)All other affidavits or other evidence filed after the date of filing an appeal pursuant to § 41.31(a)(1) through (a)(3) will not be admitted except as permitted by §§ 41.39(b)(1), 41.50(a)(2)(i) and 41.50(b)(1).

37 CFR 41.41 states:

(a)(1) Appellant may file a reply brief to an examiner's answer within two months from the date of the examiner's answer.

(2) A reply brief shall not include any new or non-admitted amendment, or any new or non-admitted affidavit or other evidence. See § 1.116 of this title for amendments, affidavits or other evidence filed after final action but before or on the same date of filing an appeal and § 41.33 for amendments, affidavits or other evidence filed after the date of filing the appeal.

(b)A reply brief that is not in compliance with paragraph (a) of this section will not be considered. Appellant will be notified if a reply brief is not in compliance with paragraph (a) of this section.

(c) Extensions of time under § 1.136 (a) of this title for patent applications are not applicable to the time period set forth in this section. See § 1.136 (b) of this title for extensions of time to reply for patent applications and § 1.550 (c) of this title for extensions of time to reply for ex parte reexamination proceedings.

MPEP 1206 states:

Amendments filed on or after the date of filing a brief pursuant to 37 CFR 41.37 may be admitted only to:

(A) cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding; or

(B) rewrite dependent claims into independent form.

Rewriting dependent claims into independent form as permitted under 37 CFR 41.33(a)(2) includes the following situations:

(A) rewriting a dependent claim in independent form by adding thereto the limitations of the parent claim(s); and

(B) rewriting an independent claim to incorporate therein all the subject matter of a dependent claim, canceling the dependent claim and in conjunction therewith changing the dependency of claims which had depended from the dependent claim being canceled to the amended independent claim that incorporates therein all the subject matter of the now canceled dependent claim.

MPEP 1208 I states:

> Any reply brief must also be in compliance with requirements set forth in 37 CFR 41.41. New or non-admitted affidavits, and/or other evidence are not permitted in a reply brief. Any new amendment must be submitted in papers separate from the reply brief, and the entry of such papers is subject to the provisions of 37 CFR 41.33. A paper that contains an amendment is not a reply brief within the meaning of 37 CFR 41.41. Such a paper will not be entitled to entry simply because it is characterized as a reply brief.

OPINION

Petitioner seeks reversal of the Technology Center Director's decision of May 15, 2009 because petitioner alleges that the decision improperly: (1) applied the rules and the MPEP regarding an amendment filed after an Appeal Brief; and (2) refused entry of the Reply Brief because it was a confusing. Accordingly, petitioner specifically requests that the Director overturn the Technology Center Director's decision of May 15, 2009 and: (1) enter the amendment after Appeal Brief filed August 25, 2008; (2) enter the Reply Brief filed May 30, 2008; or (3) provide petitioner an opportunity to file a new amendment and Reply Brief.

Petitioner first argues that the amendment filed August 25, 2008 should be entered as MPEP 1206: (1) allows amending an independent claim by adding limitations from a dependent claim; and (2) does not require canceling the claims that previously depend on the amended independent claim. Accordingly, petitioner further contends that the amendment filed August 25, 2008 should be entered.

After the filing of an Appeal Brief an amendment may be admitted only to: (1) cancel claims, where such cancellation does not affect the scope of any other pending claim in the proceeding, or (2) rewrite dependent claims into independent form. See 37 CFR 41.33(b), *supra*. MPEP 1206, *supra*. Additionally, MPEP 1206 states that an independent claim may be rewritten to incorporate therein all the subject matter of a dependent claim, canceling the dependent claim and in conjunction therewith changing the dependency of claims which had depended from the dependent claim being canceled to the amended independent claim that incorporates therein all the subject matter of the now canceled dependent claim. Therefore, the rule and the MPEP provided a narrower definition of amendment practice after the filing of an Appeal Brief than that construed by petitioner. While an independent claim may be amended by adding the limitations of a dependent claim to write a dependent claim in independent form there is nothing in the rule nor the MPEP which permits rewriting a claim into independent form and having claims depend therefrom which depending claims had

never previously depended from the subject matter of the now rewritten claim. Additionally, the rules prohibit the cancellation of a claim where such cancellation affects the scope of any other pending claim in the proceeding. As the Technology Center Director correctly noted, the cancellation of claims 20 and 22 would affect the scope of other pending claims as the subject matter of these canceled claims is now incorporated in claims which never previously depended therefrom. Moreover, the non-entered claims submitted on August 25, 2008 were not claims which had been previously rejected. An appeal, when taken, must be taken from the rejection of all claims under rejection which applicant proposes to contest. See 37 CFR 41.31(c), *supra*.

Petitioner further argues that the reply brief of May 30, 2008 should be entered as it provides arguments for both the amended and unamended claims. The current situation is governed by 37 CFR 41.44(b), *supra*. As explained in MPEP 1208 I, a paper that contains an amendment is not a reply brief within the meaning of 37 CFR 41.41. Such a paper will not be entitled to entry simply because it is characterized as a reply brief. Furthermore, as the reply brief includes a non-admitted amendment it is not entered.

With respect to petitioner's request for an opportunity to file another amendment or reply brief, 37 CFR 41.44, only permits the filing of a reply brief within two months from the date of the examiner's answer and does not permit any extensions of this time period.

For the reasons set forth above, the Technology Center Director's decision to refuse petitioners' request to compel the entry of the amendment after Appeal Brief filed August 25, 2008 and the reply brief filed May 30, 2008 is not shown to be in clear error.

DECISION

A review of the record indicates that the Technology Center Director did not abuse her discretion or act in an arbitrary and capricious manner in the petition decision of May 15, 2009. The record establishes that the Technology Center Director had a reasonable basis to support her findings and conclusion.

The petition is granted to the extent that the decision of the Technology Center Director of May 15, 2009 has been reviewed, but is denied with respect to making any change therein. As such, the decision of May 15, 2009 will not be disturbed. The refusal to enter the amendment of August 25, 2008 and the reply brief of May 30, 2008, will not be disturbed. The petition is **denied**.

Telephone inquiries concerning this decision should be directed to David A. Bucci at (571) 272-7099.

Andrew Hirshfeld
Acting Deputy Commissioner for
Patent Examination Policy

Cp

[1] This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See MPEP 1002.02

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DIW Aug-07

PEPPER HAMILTON LLP
ONE MELLON CENTER, 50TH FLOOR
500 GRANT STREET
PITTSBURGH PA 15219

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AUG 08 2007

OFFICE OF PETITIONS

In re Application of :
Terence V. Trench :
Application Number: 11/044882 : DECISION ON PETITION
Filing Date: 01/27/2005 :
For: CREATING AND STORING ONE :
OR MORE DIGITAL CERTIFICATES :
ASSIGNED TO SUBSCRIBER FOR :
EFFICIENT ACCESS USING A CHIP :
CARD :

This is a decision on the petition filed on 8 May, 2007, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on 8 December, 2006, for failure to timely file a reply to the non-final Office action mailed on 7 September, 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. The filing of the present petition precedes the mailing of Notice of Abandonment.

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

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

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

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

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

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[2] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Further, 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 2132 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:

LAWRENCE S. POPE
MAYER BROWN ROWE & MAW LLP
P.O. BOX 2828
CHICAGO IL 60690-2828

---

[2] See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1208 Off. Gaz. Pat. Office 63, 103 (October 21, 1997).

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MICHAEL L. GOLDMAN, ESQ
NIXON PEABODY, LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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JUN 27 2005

OFFICE OF PETITIONS

In re Application of :
Dombeck et al. :
Application No. 11/044,889 :
Filed: January 27, 2005 : ON PETITION
Attorney Docket No. :
19603/4661 (CRF D-3405-02) :

This is a decision on the Petition Under 37 CFR 1.53(e)(2) to According a Filing Date, filed June 3, 2005, requesting the above-identified application be accorded a filing date of January 27, 2005, including drawing Figures 2A-2G and 4.

The application was filed on January 27, 2005. On April 5, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant responds with the instant petition wherein Applicant avers that 3 pages of drawings were originally filed with the application on January 27, 2005, and were 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*, 10 pages of drawings in the above-identified application by this Office on January 27, 2005.

A review of the return-receipt postcard reveals that Applicant is correct. The postcard acknowledges receipt of, *inter alia*, 10 pages of drawings in the above-identified application by this Office on January 27, 2005. However, Petitioner has failed to include a copy of drawing drawing Figures 2A-2G and 4 with the instant petition.

Petitioner must provide a copy of drawing Figures 2A-2G and 4. Petitioner is also advised that drawing Figures may not be filed via facsimile for purposes of receiving a filing date. *See*, 37 CFR 1.6 and 37 CFR 1.8(a)(2).

The application file will be retained in the Office of petitions for a period of TWO MONTHS to await the filing of drawing Figure 10 described in the specification.

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

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

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

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

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MICHAEL L. GOLDMAN, ESQ
NIXON PEABODY, LLP
CLINTON SQUARE
P.O. BOX 31051
ROCHESTER, NY 14603-1051

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OCT 13 2005

OFFICE OF PETITIONS

In re Application of :
Dombeck et al. :
Application No. 11/044,889 :
Filed: January 27, 2005 : ON PETITION
Attorney Docket No. :
19603/4661 (CRF D-3405-02) :

This is a decision on the Response to Decision on Petition Under 37 CFR § 1.53(e)(2), filed July 25, 2005, requesting the above-identified application be accorded a filing date of January 27, 2005, including drawing Figures 2A-2G and 4.

The application was filed on January 27, 2005. On April 5, 2005, the Office of Initial Patent Examination mailed a Notice of Incomplete Nonprovisional Application (hereinafter "Notice") stating that the application had NOT been accorded a filing date because the application had been deposited without drawings.

Applicant filed a petition on June 3, 2005, wherein Applicant averred that 3 pages of drawings were originally filed with the application on January 27, 2005, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provided a copy of a return-receipt postcard acknowledging receipt of, *inter alia*, 10 pages of drawings in the above-identified application by this Office on January 27, 2005.

A review of the return-receipt postcard revealed that Applicant was correct. The postcard acknowledged receipt of, *inter alia*, 10 pages of drawings in the above-identified application by this Office on January 27, 2005. However, Petitioner failed to include a copy of drawing drawing Figures 2A-2G and 4 with the petition. The petition was dismissed in a Decision mailed June 27, 2005. Petitioner was advised to provide a copy of drawing Figures 2A-2G and 4.

With the instant Response to Decision on Petition, Petitioner has provided a copy of drawing Figures 2A-2G and 4. As such, the petition is granted.

Applicant has also re-submitted the petition fee; however, no fee is required for the Response to Decision on Petition. Accordingly, a refund of the petition fee has been credited to deposit account 14-1438 as authorized in the instant petition.

The copy of drawing Figures 2A-2G and 4, filed with the instant petition on July 25, 2005, will be used for examination purposes.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of January 27, 2005, and an indication that drawing Figures 2A-2G and 4 were present on filing, using Figures 2A-2G and 4 filed with the instant petition on July 25, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Joseph G. Contrera
The Law Office of Joseph G. Contrera, esq.
15004 Bitterroot Way
Rockville, MD 20853

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JUN 30 2006
OFFICE OF PETITIONS

In re Application of	:	
Suzanne Hall Contrera	:	DECISION ON PETITION
Application No.: 11/044,893	:	
Filed: January 27, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No.: 1005-0001	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 6, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the "Notice to File Missing Parts of Non-Provisional Application" mailed April 8, 2005 which set a two month period for reply. No extensions of time under provisions of 37 CFR 1.136(a) were obtained. Accordingly, by operation of law, the above-identified application became abandoned on June 9, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the appropriate $350.00 fee payment; (2) the petition fee and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Office action of April 8, 2005 is accepted as having been unintentionally delayed.

The application is being referred to Office of Initial Patent Examination (OIPE).

Telephone inquiries concerning this decision should be directed to the undersigned.

Derek A. Putonen
Attorney Advisor
(571) 272-3294

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OFFICE OF PETITIONS

PRO-TECHTOR INTERNATIONAL SERVICES
20775 NORADA CT.
SARATOGA, CA 95070

In re Application of
Kun-Lieh Huang
Application No. 11/044,927
Filed: January 26, 2005
Attorney Docket No. 1921029

ON PETITION

This is a decision in response to the petition, filed March 8, 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 June 9, 2006. A Notice of Abandonment was mailed on January 4, 2007. In response, on March 8, 2007, the present petition was filed.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay[1].

The application is being referred to Technology Center AU 2884 for consideration of the amendment filed March 8, 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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COATS & BENNETT, PLLC
1400 Crescent Green, Suite 300
Cary, NC 27518

Mail Date: 04/21/2010

Applicant	: Sanjeevan Sivalingham	: DECISION ON REQUEST FOR
Patent Number	: 7586922	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,946	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1150** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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APR 11 2008

OFFICE OF PETITIONS

AMSTER ROTHSTEIN & EBENSTEIN LLP
90 PARK AVENUE
NEW YORK, NY 10016

In re Application of :
Michael Koppetz :
Application No. 11/044,955 : ON PETITION
Filed: January 27, 2005 :
Attorney Docket No. 52400/30

This is a decision on the petition, filed April 7, 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 14, 2008 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2862 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

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

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Baker Donelson Bearman, Caldwell & Berkowitz, PC
555 Eleventh Street, NW, Sixth Floor
Washington, DC 20004

Mail Date: 04/20/2010

Applicant	: Ernst Rudolf F. Gesing	: DECISION ON REQUEST FOR
Patent Number	: 7642221	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **969** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 6/3/09

TO SPE OF : ART UNIT 1625

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/044980 Patent No.: 7482483 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 9D62-B
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
703-756-1591

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

1625
Art Unit

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APR 1 0 2008

OFFICE OF PETITIONS

JEFFREY J. HOHENSHELL
MEDTRONIC, INC
7601 NORTHLAND DRIVE
MINNEAPOLIS, MN 55428

In re Application of :

BAUGH, et al. :
Application No. 11/044,984 : DECISION ON PETITION
Filed: January 27, 2005 : TO WITHDRAW
Attorney Docket No. **P-4457.12** : 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 29, 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 reason set forth in the request, "the sale of this patent or application from Medtronic to Arteriocyte", 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: **BRIAN P. HOPKINS**
MINTZ LEVIN COHN FERRIS GLOVSKY & POPEO, PC
666 THIRD AVENUE
NEW YORK, NY 10017

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GARDERE WYNNE SEWELL LLP
INTELLECTUAL PROPERTY SECTION
3000 THANKSGIVING TOWER
1601 ELM ST
DALLAS, TX 75201-4761

Mail Date: 04/21/2010

Applicant	: Josep Segura-Puchades	: DECISION ON REQUEST FOR
Patent Number	: 7667753	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/044,999	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1429** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of :
West, et al. :
Application No. 11/045,013 : DECISION ACCORDING STATUS
Filed: January 27, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 149183-2 (15489US02)/ GTC :
For: METHOD AND APPARATUS FOR :
GUIDING A MEDICAL INSTRUMENT TO A
SUBSURFACE TARGET SITE IN A PATIENT

This is in response to the petition under 37 CFR 1.47(a), filed September 28, 2005.

The petition is granted.

Petitioners have shown that the non-signing inventors, Ramin Shahidi and Rasool Khadem, have either constructively or expressly refused to join in the filing of the above-identified application after having been presented with the application papers. Specifically, the petition, signed by Attorney Kirk A. Vander Leest establishes that both inventors were mailed the application papers, including the specification, claims and drawings, but Mr. Shahidi orally refused to sign the declaration during communications with Attorney Vander Leest and Mr. Khadem failed to respond to two requests that he sign the declaration. Petitioners have submitted a declaration in compliance with 37 CFR 1.63 and 1.64. Regarding fees, the current fee due for filing a petition under 37 CFR 1.47(a) is $200.00. Petitioners were charged only $130.00. Petitioners' deposit account will be charged the balance due, $70.00.

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

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

After this decision is mailed, the above-identified application will be forwarded Technology Center GAU 3737 for examination in due course.

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

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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RASOOL KHADEM
2124 JAROSA LANE
LOUISVILLE, CO 80027

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of :
West, et al. :
Application No. 11/045,013 :
Filed: January 27, 2005 :
Attorney Docket No. 149183-2 (15489US02)/ GTC :
For: METHOD AND APPARATUS FOR :
GUIDING A MEDICAL INSTRUMENT TO A
SUBSURFACE TARGET SITE IN A PATIENT

LETTER

Dear Mr. Khadem:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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RAMIN SHAHIDI
74 PETER COUTTS CIRCLE
STANFORD, CA 94305

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OCT 1 8 2005

OFFICE OF PETITIONS

In re Application of :
West, et al. :
Application No. 11/045,013 :
Filed: January 27, 2005 :
Attorney Docket No. 149183-2 (15489US02)/ GTC :
For: METHOD AND APPARATUS FOR :
GUIDING A MEDICAL INSTRUMENT TO A
SUBSURFACE TARGET SITE IN A PATIENT

LETTER

Dear Mr. Shahidi:

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

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at (571) 272-3230.

E. Shirene Willis

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

ATTORNEY OF RECORD: MCANDREWS HELD & MALLOY, LTD
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ONE BAUSCH & LOMB PLACE
ROCHESTER, NY 14604-2701

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JUN 1 8 2008

In re Application of	:	
SEELYE, et al.	:	
Application No. 11/045,017	:	DECISION ON PETITION
Filed: January 27, 2005	:	UNDER 1.137(b)
Attorney Docket No. **P03275**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 6, 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 July 5, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 5, 2007. Accordingly, the date of abandonment of this application is July 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1400, the publication fee of $300, (2) the petition fee of $1500; and (3) an adequate statement of unintentional delay.

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

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

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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Paper No.

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

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SEP 10 2009

OFFICE OF PETITIONS

In re Application of	:	
Susan Low	:	
Application No. 11/045,022	:	ON APPLICATION FOR
Filed: January 27, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 2159.2490001/	:	
EKS/C-K	:	

This is in response to the APPLICATION FOR PATENT TERM ADJUSTMENT filed February 9, 2009. Applicants submit that the patent term adjustment to be indicated on the patent is at minimum three hundred twelve (312) days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

In addition, applicants disclose that a period of reduction of 7 days should be entered for applicant delay in responding to a restriction requirement. Applicants also dispute the period of reduction of 78 days for applicant delay entered for the filing of an Information Disclosure Statement on February 15, 2008.

To the extent that applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

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

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

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

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

To the extent that applicants otherwise request correction of the initial determination of patent term adjustment (PTA), the application for patent term adjustment is **DISMISSED.**

On November 14, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. Applicants disclose that a period of reduction of 7 days be entered for applicant delay in reply to the restriction requirement. However, applicants dispute the reduction of 78 days associated with the filing of Information Disclosure Statement (IDS) on February 15, 2008.

Applicant discloses that the restriction requirement mailed August 22, 2006 set a one-month period for reply, and their reply was received in the Office on September 29, 2006, one month and 7 days later. On this basis, applicants state that a 7 day reduction is warranted pursuant to 37 CFR 1.704(b). Entry of a period of reduction of 7 days is not warranted. 37 CFR 1.704(b) provides that

> With respect to the grounds for adjustment set forth in §§ 1.702(a) through (e), and in particular the ground of adjustment set forth in § 1.702(b), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. *The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph. (Emphasis added).*

---

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

As such, the one-month period for reply set forth in the restriction requirement has no effect on the three-month period under 37 CFR 1.704(b). As applicant's reply to the restriction requirement was filed within the three-month period, the reply was not filed under circumstances that constitute applicant delay within the meaning of 37 CFR 1.704(b).

Further, applicant's argument with respect to the Information Disclosure Statement has been considered, but not found persuasive. The IDS filed February 15, 2008 was filed under circumstances that constitute a failure to engage within the meaning of 37 CFR 1.704(c)(8). Entry of the period of reduction of 78 days is warranted.

37 CFR 1.704 (c) provides that:

> Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:
>
> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;
>
> However, 37 CFR 1.704(d) provides that:
>
> A paper containing only an information disclosure statement in compliance with §§ 1.97 and 1.98 will not be considered a failure to engage in reasonable efforts to conclude prosecution (processing or examination) of the application under paragraphs (c)(6), (c)(8), (c)(9), or (c)(10) of this section if it is accompanied by a statement that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual

> designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement. This thirty-day period is not extendable.

In this instance, applicants filed the IDS 78 days after having filed a response to a non-final Office action on November 29, 2007. The IDS was not expressly requested by the examiner. Moreover, the IDS did not include a proper §1.704(d) statement. The statement purported to be in compliance with 37 CFR 1.704(d) does not track the required language of 1.704(d). The required statement states, in pertinent part, that:

> Each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in § 1.56(c) more than thirty days prior to the filing of the information disclosure statement.

Applicants are reminded that § 1.704(d) was revised, effective May 24, 2004. This revision requires that the statement include the language "each item of information contained in the information disclosure statement was first cited ..." for the exception to apply. See 69 FR 21704, Apr. 22, 2004. Moreover, the statement among other things must state that the IDS was first cited in "any" communication, not a communication. As the statement was not proper, entry of the reduction of 78 days was warranted and will not be removed.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 0 days.

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

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

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

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

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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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(FORMERLY KIRKPATRICK & LOCKHART NICHOLSON GRAHAM)
STATE STREET FINANCIAL CENTER
One Lincoln Street
BOSTON MA 02111-2950

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OFFICE OF PETITIONS

In re Application of :
Widomski, et al. :
Application No. 11/045,027 : DECISION ON PETITION
Filed: January 27, 2005 :
Docket No.: NMT-028 :

This is a decision on the petition under 37 CFR 1.181, filed December 10, 2007, to withdraw the holding of abandonment.

The petition is **GRANTED**.

The application was held abandoned for failure to timely submit a properly reply to the non-final Office action mailed April 17, 2007. Notice of Abandonment was mailed October 30, 2007.

Petitioners assert non-receipt of the non-final Office action.

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

The arguments and supporting documentation presented have been carefully considered. Moreover, petitioners have included a copy of a docket report covering the time period that a response would

have been due had it been received. In view thereof, the evidence presented support the conclusion that the non-final Office action was not received.

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

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

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

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/045,033	01/27/2005	Patrick Drayer	PDP Valve

CONFIRMATION NO.
1572

W. Eric Boyd, Esq.
39 Albergar
San Clemente CA 92672

Date Mailed: July 13, 2006

Decision Dismissing Petition under 37 CFR 1.138(c)

The declaration of express abandonment will not be recognized

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

The petition is dismissed.

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

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

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

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

4. ☐ Petition fee was not paid.

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

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

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

Rev. 10/01

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 04/21/2010

Applicant	: Mariko Okude	: DECISION ON REQUEST FOR
Patent Number	: 7590486	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,067	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1200** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 GROUP
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WASHINGTON, DC 20044-4300

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OFFICE OF PETITIONS

In re Application of	:	
Werner Biet	:	
Application No. 11/045,068	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 095309.52621C2	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 24, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Missing Parts of Nonprovisional Application (Notice) mailed April 25, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. A five (5) month extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on November 26, 2005.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a declaration and power of attorney; (2) the petition fee; and (3) the required statement of unintentionally delay have been received. Accordingly, the reply to the Notice of April 25, 2005 is accepted as having been unintentionally delayed..

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

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

Wan Laymon

Wan Laymon
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CANADA

Mail Date: 04/21/2010

Applicant	: Michael Knowles	: DECISION ON REQUEST FOR
Patent Number	: 7627330	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,073	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **91** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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VOLENTINE FRANCOS, & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON, VA 20190

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MAY 2 6 2005

OFFICE OF PETITIONS

In re Application of :
Larry E. Riley :
Application No. 11/045,074 : ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. KRD.0001 :

This is a decision on the papers styled, "Petition and Response to Notice of Omitted Items in a Nonprovisional Application Filed Under 37 CFR 1.53(b)," filed May 3, 2005, which has been treated as a petition under 37 CFR 1.53, requesting that the above-identified application be accorded a filing date of January 31, 2005, including page 3 of the specification.

The application was filed on January 31, 2005. However, on April 22, 2005, the Office of Initial Patent Examination (OIPE) mailed a "Notice of Omitted Items in a Nonprovisional Application " (Notice) that stated the application had been accorded a filing date, but page 3 of the specification appears to have been omitted.

In response, on May 3, 2005, the instant petition and a copy of page 3 of the specification were submitted. The instant petition is accompanied by a copy of applicant's postcard receipt that acknowledges receipt of "Specification, claims and abstract (18 pages)" on January 31, 2005. A review of the application file indicates the presence of seventeen (17) pages of specification, claims and abstract. It is assumed that page 3 of the specification was misplaced by the Office.

In view of the above, the petition is granted.

The petition fee, submitted May 3, 2005, will be refunded to deposit account no. 50-0238.

This application will be returned to OIPE for further processing with a filing date January 31, 2005, using the copy of page 3 of the specification, supplied on May 3, 2005.

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

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

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DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

VOLENTINE, FRANCOS & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE
SUITE 1260
RESTON, VA 20190

In re Application of:
Larry E. Riley
Application No. 11/045,074
Filed: January 31, 2005
For: **MOBILE UNDER VEHICLE INSPECTION SYSTEM**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the Petition To Make Special under MPEP 708.02, XI: Invention for Countering Terrorism, filed January 31, 2005.

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

The petition meets the requirements set forth above.

Accordingly, the petition is **GRANTED**.

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

Doris To
Special Program Examiner
Technology Center 2600
Communications

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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Fujitsu Patent Center
C/O CPA Global
P.O. Box 52050
Minneapolis, MN 55402

Mail Date: 04/21/2010

Applicant	: Satoshi Nakagawa	: DECISION ON REQUEST FOR
Patent Number	: 7590686	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1072** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Fujitsu Patent Center
Fujitsu Management Services of America, Inc.
2318 Mill Road, Suite 1010
Alexandria, VA 22314

Mail Date: 05/17/2010

Applicant : Satoshi Nakagawa
Patent Number : 7590686
Issue Date : 09/15/2009
Application No : 11/045,077
Filed : 01/31/2005

: 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 **1107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of patent term adjustment (PTA) days determined by the recalculation.

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

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

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : August 23, 2006

TO SPE OF : ART UNIT 2878

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045081 Patent No.: 7,060,955 B1

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**.

Elisha Evans

Certificates of Correction Branch

703-308-9390 ext. 110

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: _____

Georgia Y Epps — SPE

2878 — Art Unit

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15 OCT 2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
OOI et al	:	
Application No.: 11/045,088	:	DECISION ON PETITION
Filing Date: January 31, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 265127US2CONT	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 12, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

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

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

The petition does not satisfy item (1) above.

37 CFR 1.78(a)(2)(i) requires that any nonprovisional application claiming the benefit of one or more prior-filed copending nonprovisional applications must contain or be amended to contain a reference to each such prior-filed application, identifying it by application number (consisting of the series code and serial number) and indicating the relationship of the applications. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A

benefit claim that merely states that the application "claims priority benefit from US application number 10/---, filed---," does not comply with 37 CFR 1.78(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. See MPEP Section 201.11, Rev. 5, August 2006, Reference to Prior Application(s). The amendment to the specification filed with the present petition fails to state the relationship of international application PCT/JP04/02983 to the instant application.

Furthermore, international application PCT/JP04/02983 and the present application lack a common inventor.

It is noted that the supplemental application data sheet (ADS) lists international application PCT/JP03/09746 in the domestic priority section, rather than PCT/JP04/02983. However, the supplemental ADS lacks a proper signature. See 37 CFR 1.33(b). The submission of a supplemental ADS with another signed document does not satisfy the signature requirement. Applicant may wish to refer to the most recent version of Form PTO/SB/14, which can be obtained at http://www.uspto.gov/ebc/portal/efs/sb0014_fill.pdf and which contains an appropriate signature box.

Before the petition under 37 CFR 1.78(a)(3) can be granted, a renewed petition and either a supplemental ADS (37 CFR 1.76(a)(5)) or a proper amendment (complying with the provisions of 37 CFR 1.121) to correct the above matters are required.

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

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

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

By fax: (571) 273-0459
ATTN: PCT Legal Office

Any questions concerning this matter may be directed to Bryan Lin at (571) 272-3303.

Bryan Lin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

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2 1 OCT 2009

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

In re Application of	:	
OOI et al	:	
Application No.: 11/045,088	:	DECISION ON PETITION
Filing Date: January 31, 2005	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No.: 265127US2CONT	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed October 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of priority to the prior-filed international application set forth in the amendment filed concurrently with the renewed petition.

The petition is **GRANTED**.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

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

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

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Bryan Lin at (571)272-3303. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 2627 for appropriate action on the amendment filed October 15, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. 120 to the prior-filed nonprovisional application.

BryanLin

Bryan Lin
Legal Examiner
Office of PCT Legal Administration

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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LEE & MORSE, PC
3141 FAIRVIEW PARK DRIVE
SUITE 500
FALLS CHURCH, VA 22042

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APR 13 2009

OFFICE OF PETITIONS

In re Application of	:	
Tae-wan Kim, et al.	:	
Application No. 11/045,106	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 249/544	:	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 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 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. 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. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

Attachment: blank copy of PTO/SB/83

cc: JOHN A. CASTELLANO, ESQ.
HARNESS, DICKEY & PIERCE
11730 PLAZA AMERICA DRIVE
SUITE 600
RESTON, VA 20190

UNITED STATES PATENT AND TRADEMARK OFFICE

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STAAS & HALSEY LLP
1201 NEW YORK AVENUE NW, SUITE 700
WASHINGTON, DC 20005

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JUN 04 2010

OFFICE OF PETITIONS

In re Application of
Toshiya WATANABE, *et al.*
Application No. 11/045,125
Filed: January 31, 2005
Attorney Docket No. **0122.1668CIP**

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 3, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 5, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 1794 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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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No. None

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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JUN 16 2005

OFFICE OF PETITIONS

In re Application of
Steven Powney and Bogdan Mihaescu
Application No. 11/045,139
Filed: January 31, 2005
Attorney Docket No. 9-16982-1US
Title: HAND-HELD DEVICE FOR MARKING A GOLF BALL

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

This is in response to the petition under 37 C.F.R. §1.47(a)[1], filed May 9, 2005.

On January 31, 2005, the application was deposited, identifying Steven Powney and Bogdan Mihaescu as joint inventors. A fully executed oath or declaration was not included on filing[2]. On March 7, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along replacement drawings. This Notice set a two-month period for reply.

With the present petition, Petitioner has submitted the petition fee, the associated surcharge, replacement drawings, a statement of facts, and a declaration which has been signed by Mr. Powney.

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

2 Neither inventor executed he declaration.

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

Regarding the fourth requirement above, it does not appear that a complete copy of the application papers was sent to the non-signing inventor. Where a refusal of the inventor to sign the application papers is alleged, the Office requires the petitioner to establish that a bona fide attempt was made to mail a complete copy of the application, which entails the specification, claims, drawings, and oath or declaration.[3] On renewed petition, a complete copy of the application should be sent to the non-signing inventor, and he should be provided with an appropriate period to respond.

It follows that one cannot refuse to sign something which one has not been presented with. A refusal by an inventor to sign an oath or declaration when the inventor has not been presented with the application papers does not itself suggest that the inventor is refusing to join the application unless it is clear that the inventor understands exactly what he or she is being asked to sign and refuses to accept the application papers. It is reasonable to require that the inventor be presented with the application papers before a petition under 37 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[4].

As such, the petition must be **DISMISSED**.

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

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

Any renewed petition may be submitted by mail[5], hand-delivery[6], or facsimile[7].

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

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

3 See MPEP 409.03(d).
4 In re Gray, 115 USPQ 80 (Comm'r Pat. 1956).
5 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.
6 Customer Window, Randolph Building, 401 Dulaney Street, Alexandria, VA, 22314.
7 (703) 872-9306 - please note this is a central facsimile number.

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paper No. None

OGILVY RENAULT LLP
1981 MCGILL COLLEGE AVENUE
SUITE 1600
MONTREAL QC H3A2Y-3 CA CANADA

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OFFICE OF PETITIONS

In re Application of
Steven Powney and Bogdan Mihaescu
Application No. 11/045,139
Filed: January 31, 2005
Attorney Docket No. 9-16982-1US
Title: HAND-HELD DEVICE FOR MARKING A GOLF BALL

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

This is in response to the renewed petition under 37 C.F.R. §1.47(a)[1], filed September 13, 2005.

On January 31, 2005, the application was deposited, identifying Steven Powney and Bogdan Mihaescu as joint inventors. A fully executed oath or declaration was not included on filing[2]. On March 7, 2005, a "Notice to File Missing Parts of Nonprovisional Application – Filing Date Granted" (Notice) was mailed, indicating that a fully executed oath or declaration and the associated surcharge were required, along replacement drawings. This Notice set a two-month period for reply.

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

2 Neither inventor executed he declaration.

On May 9, 2005, the original petition was filed, along with the petition fee, the associated surcharge, replacement drawings, a statement of facts, and a declaration which has been signed by Mr. Powney.

This original petition was dismissed via the mailing of a decision on June 16, 2005, for the failure to establish the fourth requirement above. With this renewed petition, Petitioner has established that a complete copy of the application was sent to the non-signing inventor, and has included a one-month extension of time to make timely this response.

Therefore, the second renewed petition is **GRANTED** and this application is hereby accorded Rule §1.47(a) status.

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

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

Paul Shanoski

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

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STEIN, MCEWEN & BUI, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Sung-Hee Hwang et al	:	
Application No. 11/045,149	:	DECISION GRANTING PETITION
Filed: January 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1293.1967C	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 4, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 2, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2627 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

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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MITCHELL P. BROOK
LUCE FORWARD HAMILTON & SCRIPPS LLP
11988 EL CAMINO REAL, STE. 200
SAN DIEGO, CA 92130

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OFFICE OF PETITIONS

In re Application of	:	
Jared Morgenstern et al	:	
Application No. 11/045,164	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 30289-1230	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed January 3, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status

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

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

The application is being forwarded to the Technology Center Art Unit 3622 for action on the merits commensurate with this decision.

Amelia Au
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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KENYON & KENYON LLP
ONE BROADWAY
NEW YORK NY 10004

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JUL 31 2009

OFFICE OF PETITIONS

In re Application of	:	
Andreas Pfaeffle et al.	:	
Application No. 11/045,175	:	DECISION ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 10191/4101	:	

This is a decision on the petition, filed June 22, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action of July 11, 2008, which set a three (3) month shortened statutory period for reply. A Notice of Abandonment was mailed on June 11, 2009.

Petitioner contends that the Notice of Abandonment was mailed in error since a timely reply (Notice of Appeal) was received by the office on January 12, 2009, with a three (3) month extension of time and a certificate of mailing date of January 7, 2009. A review of the application file record confirms the receipt of this reply with the fees for a three (3) month extension of time, on January 12, 2009. It is also noted that petitioner has filed an Appeal Brief, Appeal Brief fee along with fee for a three (3) month extension of time on June 12, 2009. Thus, the application is not abandoned in fact.

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

Telephone inquires concerning this decision should be directed to JoAnne Burke at 571-272-4584.

This application is being referred to Technology Center AU 3748 for appropriate action in the normal course of business on the reply received June 12, 2009.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

Charles F. Lind
2210 East Sherwood
Arlington Hts. IL 60004

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JAN 2 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Zelechonok et al.	:	
Application No.: 11/045191	:	ON PETITION
Filing or 371(c) Date: 01/31/2005	:	
Attorney Docket Number: CFL 27613	:	

This is a decision on the Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 C.F.R. § 1.137(a), filed June 28, 2007.

This Petition is hereby **dismissed**.

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

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed October 16, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available. No complete and proper reply having been received, the application became abandoned on November 17, 2006. A Notice of Abandonment was mailed June 8, 2007.

Applicant files the instant petition and asserts that the delay was unavoidable because the Office action was not received. Applicant states that he moved on July 1, 2006, and that he notified this Office of his change of address. Applicant admits that he did not specifically file a change of address in this application, but notes that his registration number and telephone and fax numbers were on his Power of Attorney on file with this Office.

A Grantable Petition Under 37 CFR 1.137(a)

A grantable petition to revive an abandoned application under 37 CFR 1.137(a) must be accompanied by: (**1**) the required reply (unless previously filed), which may met by the filing of

a notice of appeal and the requisite fee; a continuing application; an amendment or request for reconsideration which *prima facie* places the application in condition for allowance, or a first or second submission under 37 CFR 1.129(a) if the application has been pending for at least two years as of June 8, 1995, taking into account any reference made in such application to any earlier filed application under 35 USC 120, 121 and 365(c); (**2**) the petition fee as set forth in 37 CFR 1.17(l); (**3**) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (**4**) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

Applicant lacks item (**3**) as set forth above.

The MPEP provides:

> The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received.
>
> A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. For example, if a three month period for reply was set in the non-received Office action, a copy of the docket report showing all replies docketed for a date three months from the mail date of the non-received Office action must be submitted as documentary proof of non-receipt of the Office action.
>
> <u>The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail</u> (e.g., if the practitioner has a history of not receiving Office actions). (Emphasis supplied).

MPEP 711.03(c)

<u>Analysis</u>

Applicant states that he moved on July 1, 2006, and admits that he did not specifically file a change of address in this application. 37 CFR 1.4(b) requires a separate copy of every paper to be filed in a patent, patent file, or other proceeding to be furnished for each file to which the paper pertains, even though the contents of the papers filed in two or more files may be identical. The Office communication was mailed after Applicant moved, on October 16, 2006. Applicant provides that the USPS did not forward the application to his new correspondence address. As such, there are circumstances that point to a conclusion that the Office communication may have been lost after receipt at the correspondence address of record.

<u>Conclusion</u>

The petition is dismissed without prejudice. If Applicant is able to demonstrate the timely filing of a Change of Correspondence Address, Applicant should file a request for reconsideration and provide the necessary copies of documents.

Alternate venue

If Applicant is unable to demonstrate the timely filing of a Change of Correspondence Address, Applicant is strongly urged to file a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in was "unavoidable." An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the required fee.

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

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

By mail:	Director for Patents PO Box 1450 Alexandria, VA 22313-1450
By FAX:	(571) 273-8300 Attn: Office of Petitions
By hand:	Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314

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

Derek L. Woods
Attorney
Office of Petitions

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

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In re Application of	:	
STIRBU, Vlad	:	
Application No. 11/045,198	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. **037145-1125**	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 11, 2008.

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

A review of the file record indicates that the power of attorney to FOLEY & LARDNER LLP has been revoked by the assignee of the patent application on August 29, 2008. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BANNER & WITCOFF, LTD.**
1100 13th STREET, N.W.
SUITE 1200
WASHINGTON DC 20005-4051

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GORDON & REES LLP
101 WEST BROADWAY
SUITE 1600
SAN DIEGO, CA 92101

Mail Date: 04/20/2010

Applicant	: Richard J. Smerud	: DECISION ON REQUEST FOR
Patent Number	: 7614189	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,201	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1291** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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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JUL 2 0 2005

OFFICE OF PETITIONS

In re Application of :
Nassif et al. :
Application No. 11/045,208 :
Filed: January 31, 2005 :
Attorney Docket No. 1721-85 :

Decision on Petition

This is a **corrected** decision in response to the petition filed March 29, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that pages 46-147 of the specification was part of the originally filed application.

The petition is **granted**.

The prior decision mailed July 12, 2005, is incorporated by reference and should be considered part of this decision except for the portion of the decision discussing fees.

The Office recognizes the difficulty of balancing and auditing deposit accounts held with the Office. As a result, the Office wishes to correctly inform petitioner of the action taken by the Office.

The prior decision mailed July 12, 2005, stated that:
(1) the $400 petition fee would be credited to petitioner's deposit account, and
(2) the sum of $1,000 would be charged to petitioner's deposit account.

Due to the size of the application, petitioner submitted a $1,000 fee at the time the application was filed. Financial records indicate the $1000 fee was subsequently refunded. However, the records indicate that an outside payment of $500 submitted January 31, 2005, was not refunded but was instead applied towards the $1000 fee. The Office has applied the $400 petition fee towards the $500 remaining balance and *only charged* the sum of $100 to petitioner's deposit account.

The Office regrets any inconvenience created by the incorrect language in the prior decision.

Telephone inquiries may be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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JUL 1 2 2005

OFFICE OF PETITIONS

In re Application of :
Nassif et al. :
Application No. 11/045,208 :
Filed: January 31, 2005 :
Attorney Docket No. 1721-85 :

Decision on Petition

This is a decision on the petition filed March 29, 2005, which is being treated as a petition under 37 CFR 1.53(e)(2), to establish that pages 46-147 of the specification was part of the originally filed application.

The application was filed on January 31, 2005.

On March 16, 2005, a Notice was mailed stating that pages 46-147 of the did not appear to be included as part of the application filed.

The present petition alleges that pages 46-147 of the specification were deposited on January 31, 2005. In support, petitioner has submitted a postcard receipt which acknowledges receipt of 155 pages of specification on January 31, 2005.[1] Petitioner has also submitted a copy of the missing documentation.

The USPTO file for this application includes only 53 pages of specification. Specifically, the file contains one page of abstract and specification pages numbered 1-45 and 148-154. Based on the evidence submitted, the Office concludes the missing pages were part of the application but were later misplaced. Therefore, the petition is **granted**.

The Notice mailed March 16, 2005, was sent in error and is hereby vacated.

The petition fee of $400 will be credited to petitioner's deposit account.

Due to the size of the application, petitioner submitted a $1,000 fee at the time the application was filed. Financial records indicate the $1000 fee was subsequently refunded. The refund of the fee was likely the result of the reduction in the application size due to the lost pages of specification. The incorrectly refunded $1000 fee will be charged to petitioner's deposit account.

As a courtesy, the Office will briefly discuss issues which might arise in the future due to the language on the "title page." Petitioner may wish to note that the title page might be construed as a page of the specification. 37 CFR 1.72 provides the title should appear on the first page of the specification unless it appears in an application data sheet. An application data sheet has not

[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.

been filed. Since the title appears on the "title page" but not the next page, the page can be construed to be part of the specification. The instant "title page" also has the word "SPECIFICATION" appearing at the bottom of the sheet. If the "title page" were construed to be part of the specification, and only one page had been lost, then the postcard receipt might not serve as prima facie evidence the lost page was filed since the file would contain 155 pages of specification. In the future, petitioner may wish to list "title page" separately on postcards, include the title page when counting the total number of pages of specification, or take other appropriate action.

The Office of Initial Patent Examination will be informed of the instant decision and will further process the application with a filing date of Application is being returned to the Office of Initial Patent Examination for further processing with a filing date of January 31, 2005, using the application papers filed on January 31, 2005, and the copy of the 102 pages of specification numbered 46-147 filed on March 29, 2005.

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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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	: Steven Robert Thomas	: DECISION ON REQUEST FOR
Patent Number	: 7603719	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,218	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1227** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HANA VERNY
PETERS, VERNY, JONES & SCHMITT, LLP
SUITE 230
425 SHERMAN AVENUE
PALO ALTO, CA 94306

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JUL 28 2005

OFFICE OF PETITIONS

In re Application of	:	
Thomas Hofmann et al	:	
Application No. 11/045,226	:	DECISION DISMISSING
Filed: January 28, 2005	:	PETITION
Attorney Docket No. 3818.04-4	:	

This is a decision on the petition filed March 4, 2005, requesting that the above-identified application be accorded a filing date of January 27, 2005, rather than the presently accorded date of January 28, 2005. The petition is properly being treated under 37 CFR 1.10(d).

Petitioners maintain that the application was deposited in Express Mail service with the U. S. Postal Service (USPS) on January 27, 2005. However, the USPS incorrectly entered the "date-in" on the express mailing label as January 28, 2005. Accordingly, petitioners request that the application be accorded a filing date as of the actual date of deposit with the USPS.

Paragraph (d) of 37 CFR 1.10 states that:

> Any person filing correspondence under this section that was received by the Office and delivered by the "Express Mail Post Office to Addressee" service of the USPS, who can show that the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS was incorrectly entered or omitted by the USPS, may petition the Commissioner to accord the correspondence a filing date as of the date the correspondence is shown to have been deposited with the USPS, provided that:
>
> (1) The petition is filed promptly after the person becomes aware that the Office has accorded, or will accord, a filing date based upon an incorrect entry by the USPS;
>
> (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that constitute the correspondence prior to the original mailing by "Express Mail"; and

(3) The petition includes a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day. Any showing pursuant to this paragraph must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS.

Items (1) and (2) above have been satisfied. However, the declarations submitted with the petition fail to provide the evidence necessary to satisfy item (3).

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be the Express Mail Corporate Account Mailing Statement. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be in the form of a log book which contains information such as the Express Mail number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit; the depositor's initials or signature; and the date and time of entry in the log.

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

This decision is made without prejudice to reconsideration. Any request for reconsideration of this decision should be filed within **TWO MONTHS** of the date of this decision in order to be considered timely (see 37 CFR 1.181(f)) and should be addressed as follows:

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

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

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

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.

Since a petition under 37 CFR 1.10 does not require a petition fee, the $130.00 petition fee submitted with the present petition is being credited to counsel's deposit account as authorized.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3204.

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

cc: PETERS, VERNY, JONES & SCHMITT, LLP
385 SHERMAN AVENUE, SUITE 6
PALO ALTO, CA 94306

UNITED STATES PATENT AND TRADEMARK OFFICE

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

HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

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MAY 28 2009

OFFICE OF PETITIONS

In re Application of	:	
Robert A. Cochran, et al.	:	
Application No. 11/045,230	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 200400796-1	:	

This is a decision on the petition, filed April 7, 2009, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Ms. Mary Jo Bertani appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that she is authorized to represent the particular party on whose behalf she acts.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed September 10, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). This decision precedes the mailing of a Notice of Abandonment. On April 7, 2009, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the response in the form of an election of the invention to be examined; (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay[1].

The application file is being forwarded to Technology Center AU 2432 for appropriate action by the Examiner in the normal course of business on the reply received April 7, 2009.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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HANA VERNY
PETERS, VERNY, JONES, SCHMITT & ASTON, LLP
425 SHERMAN AVENUE, SUITE 230
PALO ALTO, CA 94306

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MAR 2 2 2005

OFFICE OF PETITIONS

In re Application of	:	
Hofmann et al.	:	
Application No. 11/045,234	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 3818.04-3	:	

This is a decision on the petition filed March 4, 2005, requesting that the above-identified application be accorded a filing date of January 27, 2005, rather than the presently accorded date of January 28, 2005. The petition is properly treated as a petition under 37 CFR 1.10(d).

The petition is **DISMISSED**.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are NOT permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.10." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

37 CFR 1.10(d) states,

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

As to (3), petitioner has failed to submit any evidence from the USPS or that came into being after deposit and *within one business day* of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS. The declarations submitted with the instant petition are not sufficient.

A petition under 37 CFR 1.10 does not require a petition fee. Accordingly, the $130.00 petition fee submitted will be credited to petitioner's deposit account as authorized.

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

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

By hand: Customer Window located at:

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

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

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

Charles Steven Brantley
Petitions Attorney
Office of Petitions

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DAINELS DANIEL & VERDONIK PA
1822 N.C. HIGHWAY 54 EAST, SUITE 200
GENERATION PLAZA
DURHAM, NC 27713

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OFFICE OF PETITIONS

In re Application of :
GLODJO, Arman :
Application No. 11/045,235 : DECISION ON PETITION
Filed: January 28, 2005 : TO WITHDRAW
Attorney Docket No. 6057-27617 : FROM RECORD
:

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 18, 2006.

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

A review of the file record indicates that the power of attorney to ***DANIEL DANIEL & VERDONIK PA*** has been revoked by the assignee of the patent application on May 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: **MEYERTONS HOOD KIVLIN KOWERT & GOETZEL PC**
P.O. BOX 398
AUSTIN, TX 78767-0398

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SEP 30 2009

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

In re Application of Glodjo Application No. 11/045,235 Filed: January 28, 2005 For: SINGLE-PERIOD AUCTIONS NETWORK DECENTRALIZED TRADING SYSTEM AND METHOD	: : : : : : :	DECISION ON PETITION TO REVIEW RESTRICTION REQUIREMENT UNDER 37 CFR 1.144

This is in response to applicant's petition filed under 37 CFR 1.144 received April 16, 2009 requesting a review of the restriction requirement made between Groups I, II and III in the Office action mailed October 29, 2008 and that said restriction requirement between said groups be withdrawn.

The petition is **DISMISSED AS MOOT**.

A review of the record shows the following correspondences:

- **10/29/2008** - The Examiner issued an Office action requiring a restriction between the following 10 groups:

  I. Claims 1-3, 5-6, 9-13, 15-16, 18 and 20, drawn to a system and method for conducting a single-period auction where there is one offeror and at least one offeree, classified in class 705, subclass 37.

  II. Claims 28-47 and 49, drawn to a method for conducting a single-period auction wherein the received bid is an aggregation of bids from a group of entities, classified in class 705, subclass 37.

  III. Claims 52-56, drawn to a system for conducting a single-period auction which involves changing one of the maintained set of limits for a first of the two or more offerees in response to information received from an obligor of the first offeree with respect to the offer, classified in class 705, subclass 37.

  IV. Claims 57-63, 76, 64-68 and 77-78, drawn to a method and system associated with a first intermediate credit extending entity to trade with an offeror during a single-period auction, classified in class 705, subclass 37.

V. Claims 69-70 and 79-80, drawn to a method for conducting a single-period auction wherein the bid is conveyed to the offeror in the name of a first intermediate trading entity, classified in class 705, subclass 37.

VI. Claims 71 and 81, drawn to a method comprising a company conducting an offering of a group of its shares via the Internet, classified in class 705, subclass 37.

VII. Claims 72-74, drawn to a method comprising an intermediate credit-extending entity receiving an offer to bid on shares of a company as part of an Internet-based, single-period auction, classified in class 705, subclass 37.

VIII. Claims 75 and 82, drawn to a method comprising a company conducting an Internet-based, single-period offering of its shares in which one or more intermediate credit-extending agents guaranteeing performance of the received bid, classified in class 705, subclass 37.

IX. Claims 83-85, drawn to a method for conducting a single-period auction which involves an intermediate entity extending credit to the user, classified in class 705, subclass 37.

X. Claim 86, drawn to a system for conducting a single-period auction that involves bids from entities bidding within limits authorized by intermediate credit-extending agents, classified in class 705, subclass 37.

- **11/29/2008** Applicant elected invention I with traverse.
- **12/23/08** – The Examiner withdrew the restriction between Groups I and X, and included claim 86 in Group I
- **3/23/09** – Applicant cancelled claims 57-85, rendering the restriction requirement of groups IV, V, VI, VII, VIII and IX as moot. Applicant further amended claims 28 and 52 to recite "aggregated bid" or "aggregation of bids".
- **4/16/09** – Applicant filed a Petition for Withdraw of the Restriction requirement
- **4/16/09** – The Examiner withdrew the restriction between groups I and II, but maintained the restriction of group III.
- **6/16/09** – Applicant filed and after Final Amendment
- **6/25/09** – Examiner filed an Advisory action
- **7/15/09** – Applicant filed and Request for Continued Examination
- **8/10/09** – Examiner withdrew the restriction requirement between groups I and III.

In view of the findings noted above, none of the pending claims have been restricted. Accordingly this petition is **DISMISSED AS MOOT**.

Wynn Coggins, Director
Patent Technology Center 3600
(572) 272-5350

jak: 9/23/09

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OFFICE OF PETITIONS

In re Application of :
Satoshi Muramatsu et al :
Application No. 11/045,293 : DECISION GRANTING FILING
Filed: January 31, 2005 : DATE OF JANUARY 31, 2005
Attorney Docket No. 260127US3 CONT :

This is a decision on the petition filed April 21, 2005 under 37 CFR 1.53(e), stating that page 28 of the specification was present on filing of the above-identified application.

The petition is **granted**.

The application was deposited on January 31, 2005. However, on March 21, 2005, the Office of Initial Patent Examination Division mailed a "Notice of Omitted Items," stating that page twenty-eight (28) of the specification was omitted from the application on filing.

In response, on April 21, 2005, the instant petition and a copy of page twenty-eight (28) of the specification were submitted. The papers were accompanied by a copy of applicant's postcard receipt that acknowledges receipt of thirty (30) pages of the specification on January 31, 2005. A review of the application file indicates the presence of only twenty-nine (29) pages of the specification with page twenty-eight (28) missing.

MPEP 503 states that "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 the items listed thereon on the date stamped thereon by the PTO." Accordingly, since the evidence supports the fact that thirty (30) pages of the specification were in fact present on filing, the Notice mailed March 21, 2005 is vacated.

Since page twenty-eight (28) of the specification cannot be located in the Office, the copy of page twenty-eight (28) supplied on April 21, 2005 will be used for processing and examination purposes.

This matter is being referred to the Office of Initial Patent Examination Division for processing with a filing date of **January 31 2005**, and for an indication that page twenty-eight (28) of the specification was included on filing and for mailing of a corrected filing receipt.

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

Karen Creasy

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

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OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, PC
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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of	:
Satoshi Muramatsu et al	:
Application No. 11/045,293	: DECISION GRANTING PETITION
Filed: January 31, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 260127US3 CONT	:

This is a decision on the petition, filed November 16, 2006, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 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) 272-3218.

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of :
Satoshi Muramatsu et al :
Application No. 11/045,293 : DECISION GRANTING PETITION
Filed: January 31, 2005 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 260127US3 CONT :

This is a decision on the petition, filed June 1, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 1, 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 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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ALEXANDRIA, VA 22314

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OFFICE OF PETITIONS

In re Application of
Satoshi Muramatsu et al
Application No. 11/045,293
Filed: January 31, 2005
Attorney Docket No. 260127US3 CONT

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on September 24, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This matter is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

Frances Hicks
Petitions Examiner
Office of Petitions

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

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OFFICE OF PETITIONS

In re Application of	:	
Satoshi Muramatsu et al	:	
Application No. 11/045,293	:	DECISION GRANTING PETITION
Filed: January 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 260127US3 CONT	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 8, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on January 9, 2008 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

This application is being referred to Technology Center AU 2852 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment and IDS.

Karen Creasy
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

ON PETITION

In re Application of :
Katsuhiko Koui et al :
Application No. 11/045,326 :
Filed: January 31, 2005 :
Attorney Docket No. 265171USOTTCRDDIV :

This is a decision on the petition, filed October 7, 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 August 10, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

The examiner of Technology Center AU 2652 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Liniak, Berenato & White
6550 Rock Spring Drive, Ste. 240
Bethesda MD 20817

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AUG 2 2 2006
OFFICE OF PETITIONS

In re Application of	:	
David **ALLEN**	:	
Application No. 11/045,342	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 5211.033	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 5, 2006.

The request is **APPROVED**.

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

The request was signed by Thomas P. Liniak. Thomas P. Liniak has been withdrawn as attorney or agent of record; all other attorneys remain of record. The correspondence address of record remains unchanged.

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

Amelia Au
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : February 21, 2008

TO SPE OF : ART UNIT 3661

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045348 Patent No.: 7286910 B2

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

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

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

DO NOT SENT TO ATTORNEY

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

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

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

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

Thank You For Your Assistance

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

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

Comments: Certified copy of Priority document was filed 1/31/2005 (FR 0400917). Examiner was mistaken to check box 12c on the office action of 11/3/06 and the patent should read as the applicant has amended.

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SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Thomas G. Black/

3661

SPE Art Unit

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JUN 26 2007

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of :
Dennis L. Schultze
Serial No.: 11/045,397
Filed: January 29, 2005
Attorney Docket No.: 1423-066

: PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed May 23, 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 May 23, 2007, be expunged from the record. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

This is an examined application which is currently under non-final rejection. As such the information provided has been reviewed, in part, but proceedings in the application have not been terminated. As stated in M.P.E.P. 724, upon allowance or other action closing prosecution in an application, petition may be made for return of Proprietary information. The information cannot be expunged at this time.

The petition is **DISMISSED**. Applicant may resubmit the petition subsequent to a Notice of Allowability or *ex parte Quayle* action being mailed in the application. No additional petition fee will be required at that time.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 703-872-9306.

Marianne C. Seidel
Quality Assurance Specialist/Program Examiner
Technology Center 1600

UNITED STATES PATENT AND TRADEMARK OFFICE

AUG 31 2007

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

JONDLE & ASSOCIATES P.C.
858 HAPPY CANYON ROAD SUITE 230
CASTLE ROCK CO 80108

In re Application of	:
Dennis L. Schultze	:
Serial No.: 11/045,397	: PETITION DECISION
Filed: January 29, 2005	:
Attorney Docket No.: 1423-066	:

This is in response to the renewed 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 May 23, 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

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Glenn P. Rickards
DOWREY RICKARDS PLLC
Suite 106
19119 North Creek Parkway
Bothell WA 98011

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NOV 13 2006

OFFICE OF PETITIONS

In re Application of	:	
Richard Lacey	:	
Application No. 11/045,414	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 58-29-101cip	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 27, 2005, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

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

The instant petition includes a statement from the applicant declaring that he is 65 years of 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 1742 for action on the merits commensurate with this decision.

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAROLLI, SUNDHEIM, COVELL &
TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVEVLAND OH 44114

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SEP 30 2009

OFFICE OF PETITIONS

In re Application of

Eck, et al.

Application No. 11/045,415

Filed: January 28, 2005

Attorney Docket No. **TRW(ASG)7504**

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), August20, 2009, to revive the above-identified application.

The petition is **granted**.

This application was held abandoned March 16, 2009, after a proper response to the Notice of Allowance and Issue Fee Due, mailed March 19, 2009, was not received. The notice set forth a non-extendable statutory period of reply of three months from its mailing date. No response was received within the allowable period and the application became abandoned on June 20, 2009. A Notice of Abandonment was mailed July 15, 2009.

The issue fee was received on August 20, 2009. Form PTOL-85B was received on August 20, 2009.

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

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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TAROLLI, SUNDHEIM, COVELL & TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114

Mail Date: 04/26/2010

Applicant	: Gregor Eck	: DECISION ON REQUEST FOR
Patent Number	: 7621199	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,415	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **519** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

APR 26 2007

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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.: 11/045,418	: PETITION DECISION
Filed: January 29, 2005	:
Attorney Docket No.: 1423-067	

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

JUL 20 2007

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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.: 11/045,418	: PETITION DECISION
Filed: January 29, 2005	:
Attorney Docket No.: 1423-067	:

This is in response to the renewed petition under 37 CFR § 1.59(b), filed June 29, 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 Examiner
Technology Center 1600

13 NOV 2006

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Alexandria, VA 22313-1450
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KUTAK ROCK LLP
1801 CALIFORNIA STREET
SUITE 3100
DENVER, CO 80202

In re Application of	:	DECISION ON REQUEST
FISHER, David C.	:	
Application No.: 11/045,419	:	FOR WITHDRAWAL
Attorney's Docket No.: 424083	:	
For: SCHEDULER	:	AS ATTORNEY

This is in response to "REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT" filed 20 October 2006. Gerald Kraai has requested that he and the attorneys/agents associated with Customer Number 30,955 be withdrawn as attorneys or agents of record. No fee is required.

The criteria for effecting a proper withdrawal of attorney are spelled out in Section 402.06 of the Manual of Patent Examining Procedure (MPEP) which reads, in part, as follows:

> The Commissioner of Patents and Trademarks usually requires that there be at least 30 days between approval of withdrawal and the later of the expiration date of a time period for reply or the expiration date of the period which can be obtained by a petition and fee for extension of time under 37 CFR 1.136(a). This is so that the applicant will have sufficient time to obtain other representation or take other action. If a period has been set for reply and the period may be extended without a showing of cause pursuant to 37 CFR 1.136(a) by filing a petition for extension of time and fee, the practitioner will not be required to seek such extension of time for withdrawal to be approved. In such a situation, however, withdrawal will not be approved unless at least 30 days would remain between the date of approval and the last date on which such a petition for extension of time and fee could properly be filed.

Since all of the criteria delineated in Section 402.06 of the M.P.E.P. have been complied with and since there are no outstanding responses due, the request to withdraw as attorney of record is **GRANTED**.

All future communications will be forwarded to Kutak Rock LLP at the address indicated in "REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT" filed 20 October 2006.

In view of the above discussion, counsel's Request for Withdrawal is **GRANTED**.

A copy of this decision and the withdrawal request will be forwarded to Gerald Kraai.

Daniel Stemmer
Legal Examiner
PCT Legal Affairs
Office of Patent Cooperation Treaty
Legal Administration
Telephone: (271) 272-3301
Facsimile: (571) 273-0459

CC: LATHROP & GAGE LC
4845 PEARL EAST CIRCLE
SUITE 300
BOULDER, CO 80301

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Indianapolis Office 27879
Brinks Hofer Gilson & Lione
Capital Center, Suite 1100
201 North Illinois Street
Indianapolis, IN 46204-4220

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OFFICE OF PETITIONS

In re Application of	:	
Howard James Smith	:	
Application No. 11/045,420	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 12696/004	:	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 February 16, 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 A. James Richardson and all attorneys/agents of record has been revoked by the applicant of the patent application on June 26, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Dennison, Schultz & MacDonald
1727 King Street
Suite 105
Alexandria, VA 22314

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OFFICE OF PETITIONS

KEOWN & ASSOCIATES
SUITE 1200
500 WEST CUMMINGS PARK
WOBURN MA 01801

In re Application of	:	
Hecht et al.	:	
Application No. 11/045,423	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. PIN-001US1	:	

This is a decision on the petitions under 37 CFR §§ 1.36(a) and1.183, filed June 29, 2009, by Ken Alibek and Vladimir Karginov, requesting revocation of power of attorney by less than all of the applicants or owners and requesting waiver of the requirement of 37 CFR 1.32(b)(4) for appointment of power of attorney by less than all of the applicants or owners.

The petitions are **dismissed**.

The application as filed named Vladimir Karginov, Sidney Hecht, Noureddine Falmi and Ken Alibek as inventors. In the original Declaration, all four of the inventors gave power of attorney to Wayne A. Keown Reg. No. 33,923 and Joseph C. Zucchero Reg. No. 55,762. To date, this power of attorney has not been revoked. On March 11, 2008, an amendment was filed canceling the claims attributed to Vladimir Karginov and Ken Alibek, and on June 6, 2008 the inventorship of the above-noted application was changed pursuant to a petition under 37 CFR 1.48(b) such that Vladimir Karginov and Ken Alibek were deleted as inventors. Joseph C. Zucchero signed the statement that Vladimir Karginov and Ken Alibek were no longer inventors of the claimed invention and, therefore, Mr. Zucchero accepted full responsibility for ensuring that the inventors were not being improperly deleted from the application. *See* MPEP 201.03III.

Vladimir Karginov and Ken Alibek are not currently inventors of the claimed invention. Also, the inventors are the applicants, as set forth on 37 CFR 1.41(b). Only applicants, assignees, or owners of a patent may revoke a power of attorney and appoint a new power of attorney, as set forth in 37 CFR §§ 1.32(b) and 1.36(a). Thus, since Vladimir Karginov and Ken Alibek are not applicants, they may not revoke a power of attorney or appoint a new power of attorney.

This decision is being mailed to the address of record for the above-identified application. In order to ensure that the requesting party is notified of the decision, the decision is also being forwarded to the address on the petition. However, future correspondences will be forwarded to the address of record until the address is properly changed.

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]

Any questions concerning this matter may be directed to the undersigned at (571) 272-6692.

Christopher Bottorff
Petitions Examiner
Office of Petitions

cc: Hogan & Hartson L.L.P.
1999 Avenue of the Stars, Suite 1400
Los Angeles, California 90067

[1] www.uspto.gov/ebc/efs_help.html (for help using EFS-Web call the Patent Electronic Business Center at (866) 217-9197)

2040/CON

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	Kernan, Colin M.
Serial No:	Not yet assigned 11/045426
Filed:	
Title:	FLIP RAMP MECHANICAL INTERLOCK FOR APPLIANCE
Examiner:	Not yet assigned
Attorney Ref. No.:	2040/CON

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

PETITION TO MAKE SPECIAL UNDER 37 CFR 1.102

Dear Sir:

Applicant hereby submits a Petition to Make Special in accordance with CFR §1.102(d) for the enclosed new application.

Applicant respectfully requests that this application be made special because of actual infringement of the claims of the application. Applicant hereby alleges the following:

(A) There is an infringing device or product actually on the market or method in use;

(B) A rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and in our opinion, some of the claims are unquestionably infringed; and

(C) A careful and through search of the prior art has been made.

12/04/2005 DTESSEM1 00000032 501239 11045426
05 FC:1464 130.00 DA

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700
MAR 16 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

Guerin & Rodriguez, LLP
5 Mount Royal Avenue
Mount Royal Office Park
Marlborough, MA 01752

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SEP 0 2 2008

OFFICE OF PETITIONS

In re Application of
Sarah Burgess Gregorian
Application No. 11/045,433
Filed: January 26, 2005
Attorney Docket No. SBG-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 5, 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 Michael A. Rodriguez on behalf of all attorneys/agents associated with customer number 32836. All attorneys/agents have been withdrawn.

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

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

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

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Sarah B. Gregorian
7 Bear Hill Road
Natick, MA 01760

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
11/045,433	01/26/2005	Sarah Burgess Gregorian	SBG-001

CONFIRMATION NO. 9945

POWER OF ATTORNEY NOTICE

32836
GUERIN & RODRIGUEZ, LLP
5 MOUNT ROYAL AVENUE
MOUNT ROYAL OFFICE PARK
MARLBOROUGH, MA 01752

OC000000031851961

Date Mailed: 09/02/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/05/2008.

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

/kainabinet/

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

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JJGJR.: 09-07

Paper No: __

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OFFICE OF PETITIONS

VINCENT L. CARNEY LAW OFFICE
P.O. BOX 80836
LINCOLN NE 68501-0836

In re Application of	:	
Roller, et al.	:	DECISION
Application No.: 11/045,445	:	
Filing Date: 25 January, 2005	:	
Attorney Docket No. 941-1-8-1	:	

This is a decision on the petition, filed on 7 May, 2007, to withdraw the holding of abandonment and considered under 37 C.F.R. §1.181.

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.[1]

For the reasons set forth below the petition as considered under 37 C.F.R. §1.181 is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the non-final Office action mailed on 5 October, 2006, with reply due absent an extension of time on or before 5 January, 2007;

[1] **NOTE: Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected. Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.**

- the application went abandoned by operation of law after midnight 5 January, 2007;
- the Office mailed the Notice of Abandonment on 19 April, 2007;
- on 7 May, 2007, Petitioner filed the instant petition, and averred therein, *inter alia*, timely reply in the form of an amendment (over a 2 April, 2007, certificate of mailing) filed on 5 April, 2007, along with not one but three separate requests and fees for extensions of time filed on 8 January, 7 February and 8 March, 2007, and submits copies of date-stamped receipt cards (see: MPEP §503[2]) and of the averred reply in support of the statement.

Petitioner may find it of value to review the proper methodology for and timing of a request for extension of time (see: MPEP §710.02(e)), and may wish to request of Finance a refund for any unnecessary fees that he concludes he paid.

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

---

[2] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)); and those registered to practice *and* all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[3]

---

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—

(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and

(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —

(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;

(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.

(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —

(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.

(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

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).[4]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[5]

Delays in responding properly raise the question whether delays are unavoidable.[6] Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a).[7]

And the Petitioner must be diligent in attending to the matter.[8] Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care.

(By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[9]))

---

[4] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[5] Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.

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

[7] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[8] See: Diligence in Filing Petitions to Revive and Petitions to Withdraw the Holding of Abandonment, 1124 Off. Gaz. Pat. Office 33 (March 19, 1991). It was and is Petitioner's burden to exercise diligence in seeking either to have the holding of abandonment withdrawn or the application revived. See 1124 Off. Gaz. Pat. Office supra.

[9] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[10]

The commentary at MPEP §711.03(c) provides:

* * *

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

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

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

Where a certificate of mailing under 37 C.F.R. §1.8, but not a postcard receipt, is relied upon in a petition to withdraw the holding of abandonment, see 37 C.F.R. §1.8(b) and MPEP § 512.

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

> As stated in 37 C.F.R §1.8(b)(3) the statement that attests to the previous timely mailing or transmission of the correspondence must be on a personal knowledge basis, or to the satisfaction of the Director of the USPTO. If the statement attesting to the previous timely mailing is not made by the person who signed the Certificate of Mailing (i.e., there is no personal knowledge basis), then the statement attesting to the previous timely mailing should include evidence that supports the conclusion that the correspondence was actually mailed (e.g., copies of a mailing log establishing that correspondence was mailed for that application). When the correspondence is shown to have been timely filed based on a certificate of mailing, the correspondence is entered into PALM with the actual date of receipt (i.e., the date that the duplicate copy of the papers was filed with the statement under 37 C.F.R. §1.8).
>
> 37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a statement under 37 C.F.R. 1.8(b)(3) accompanied by a duplicate copy of the correspondence when a reasonable amount of time (e.g., more than one month) has elapsed from the time of mailing or transmitting of the correspondence. Applicant does not have to wait until the application becomes abandoned before notifying the Office of the previous mailing or transmission of the correspondence. Applicant should check the private Patent Application Information Retrieval (PAIR) system for the status of the correspondence before notifying the Office. See MPEP § 512.
>
> * * *

Moreover, the regulation places upon Petitioner a diligence requirement to seek relief within two (2) months of the act complained of.

It appears Petitioner has satisfied the showings required herein.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 19 April, 2007, Notice of Abandonment is **vacated**.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[11]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

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

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OFFICE OF PETITIONS

In re Application of	:	
Gerald D. Neff et al.	:	
Application No. 11/045,448	:	DECISION ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 21741.29002	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 7, 2008, which set a shortened statutory period for reply of three (3) months. Petitioner had requested a three (3) month extension of time under the provisions of 37 CFR 1.136(a) with the response on April 3, 2009. However, as the funds in the indicated deposit account were insufficient at the time of payment to cover the fees required for obtaining three (3) months of extension of time under 37 CFR 1.136(a), the response was deemed untimely . Therefore, the application became abandoned on January 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $810, and (3) a proper statement of unintentional delay.

The extension of time fee of $555 submitted on April 3, 2009, was debited from the deposit account on April 27, 2009. As this was subsequent to the expiration of maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account as authorized in the instant petition.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3753 for appropriate action by the Examiner in the normal course of business on the reply received on April 3, 2009.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of :
Shannon J. CHAN, et *al.* :
Application No. 11/045,452 : DECISION ON PETITION
Filed: January 28, 2005 : UNDER 37 CFR 1.137(b)
Attorney Docket No. **M1103.70680US00** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 30, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, September 8, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on October 9, 2008.

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

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay.

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

This application is being referred to Technology Center AU 2444 for appropriate action by the Examiner in the normal course of business on the reply received June 30, 2009.

Brian W. Brown
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Daniels Daniels & Verdonik, P.A.
Suite 200 Generation Plaza
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Durham, NC 27713

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OFFICE OF PETITIONS

In re Application of	:	
Arman Glodjo	:	
Application No. 11/045,458	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 6057-27616	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed December 18, 2006

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

A review of the file record indicates that the power of attorney to Daniels Daniels & Verdonik, P.A. has been revoked by the assignee of the patent application on May 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 Terri Williams at 571-272-2991.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Meyertons, Hood, Kivlin, Kowert & Goetzel, P.C.**
P.O. Box 398
Austin, TX 78767-0398

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AUSTIN TX 78767-0398

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OFFICE OF PETITIONS

In re Application of:
GLODJO, Arman
Application No. 11/045,458
Filed: January 28, 2005
Attorney Docket No. 6057-27616

ON PETITION

This is a decision on the Petition To Expunge Information Unintentionally Submitted Under 37 C.F.R. §1.59(b), filed June 3, 2009. The requisite $200.00 petition fee has been submitted.

The petition is **GRANTED**.

Petitioner urges that "[a]n incorrect copy of the Specification was inadvertently filed on June 2, 2009". As such, Applicant requests that the "incorrect copy of the Specification" be expunged "in order to avoid the file wrapper from having incorrect and potentially confusing information". It is agreed that under the circumstances of this case, petitioner has shown to the satisfaction of the Director that expungement is appropriate.

The file entry of the subject document has been closed. As such, the document is no longer available to the public for inspection, which is the Image File Wrapper (IFW) equivalent to removal of a paper document from a paper file wrapper.

Telephone inquiries concerning this decision should be directed to Brian W. Brown at (571) 272-5338.

Brian W. Brown
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

In re Application of	:	
Baek et al.	:	
Application No. 11/045496	:	
Filing or 371(c) Date: 01/31/2005	:	
Attorney Docket Number:	:	
Q85919	:	ON PETITION

This is a decision on the "Petition for New Notice of Allowance and Withdrawal of Holding of Abandonment Under MPEP Section 711.03(c)(I), filed April 23, 2007. The petition is properly treated under 37 C.F.R. 1.181(a). The delay in treating this petition is regretted.

This Petition is hereby **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the Notice of Allowance and Issue Fee Due, mailed December 21, 2006. The Notice set a non-extendable three (3) month period for reply. No response having been received, the application became abandoned on March 22, 2007. A Notice of Abandonment was mailed April 16, 2007.

With the instant petition, Applicant has demonstrated non-receipt of the Notice by a preponderance of the evidence.

In view of the foregoing, the petition is granted. The holding of abandonment is hereby withdrawn.

No petition fee has been charged and none is due.

The application will be referred to Technology Center Art Unit 2627 for re-mailing of the Notice.

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

Derek L. Woods
Attorney
Office of Petitions

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ARLINGTON VA 22201

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OFFICE OF PETITIONS

In re Application of :
Menrad :
Application No. 11/045,502 : ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. SCH-2000 :
For: MULTIVALENT COMPLEXES, THEIR PRODUCTION AND METHOD OF USE

This is a decision on the petition under 37 CFR 1.137(b), filed on December 6, 2005, to revive the above-identified application.

Petitioner states that the above-identified application became abandoned as a result of petitioner's failure to properly respond to the Notice to File Missing Parts of Nonprovisional Application, mailed March 16, 2005, which set an extendable two month period for response. Petitioner paid a five month extension of time fee and a processing and retention fee on October 17, 2005.

The instant petition was filed because processing and retention practice had been eliminated by October 17, 2005; therefore, the application became abandoned on October 17, 2005.

In light of the subsequent withdrawal of the March 16, 2005 Notice and the mailing of a new Notice on December 15, 2005, the petition under 37 CFR 1.137(b)is **dismissed as moot.** The $1,500.00 petition fee submitted on December 6, 2005 will be credited to deposit account 13-3402. Any other requests for refund should be directed to the Office of Initial Patent Examination.

After the mailing of this decision the application will be forwarded to Technology Center A.U. 1638 for examination in due course.

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

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 3/25/2010

TO SPE OF : ART UNIT 3663 (3600)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045,513 Patent No.: 7,409,117

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

Ernest C. White, LTE
Randolph Sq. Ste 9D62A
703-756-1590

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.

_____

_____

_____

SPE /Jack W Keith/ **ART UNIT** 3663

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OFFICE OF PETITIONS

In re Application of	:	
Sistla et al.	:	
Application No. 11/045525	:	
Filing or 371(c) Date: 01/28/2005	:	ON PETITION
Attorney Docket Number:	:	
42P20159X	:	

This is a decision on the Request for Reconsideration of Petition Under 37 CFR 1.137(b), filed April 20, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely and properly reply to the final Office action, mailed January 24, 2008. The Office action set a three (3) month period for reply from the mail date of the Office action. Extensions of time were available under 37 CFR 1.136(a). Applicant filed a Request for Continued Examination ("RCE") and an Amendment on July 9, 2008; however, the Amendment was non-compliant. Applicant was so notified in a Notice of Non-Compliant Amendment mailed July 22, 2008. No complete and proper reply having been received, the application became abandoned on September 28, 2008. A Notice of Abandonment was mailed February 17, 2009.

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

This application is being referred to Technology Center Art Unit 2100 for processing of the Amendment filed with the petition in the normal course of business.

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

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

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WASHINGTON DC 20005

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OFFICE OF PETITIONS

In re Application of Application Number: 11/045526 Filing or 371(c) Date: 01/28/2005 Attorney Docket Number: 2469.0060001/EKS/GLL	: : : : :	DECISION ON PETITION UNDER 37 CFR 1.137(b)

This is a decision on the petition, filed on July 22, 2009, 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 October 4, 2007. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

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

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

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

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

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 31, 2009 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to Senior Petitions Attorney Douglas I. Wood at (571) 272-3231.

This application is being referred to Technology Center Art Unit 2165 for examination in due course.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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
11/045,526	01/28/2005	Derek A. Gregg	2469.0060001/EKS/GLL

CONFIRMATION NO. 2151

26111
STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

NONPUBLICATION RESCISSION LETTER

OC000000037928808

Date Mailed: 09/22/2009

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 12/31/2009.

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".

/diwood/

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOV 17 2006
OFFICE OF PETITIONS

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

In re Application of	:	
Gundula CZYZEWSKI et al.	:	DECISION ON PETITION
Application No. 11/045,529	:	UNDER 37 CFR 1.78(a)(3)
Filed: January 28, 2005	:	
Attorney Docket No. 2002P00794WOUS	:	

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 28, 2006, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 365(c) for the benefit of priority to prior-filed PCT Application No. PCT/EP03/06861, filed June 27, 2003, set forth in the accompanying Application Data Sheet (ADS) (the international application number is referred to in the petition and ADS as PCT/EP2003/006861).

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

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

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

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

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

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

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

Any inquiries concerning this decision may be directed to David Bucci at (571) 272-7099. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to the examiner of Technology Center Art Unit 1746 for appropriate action on the amendment filed April 28, 2006, including consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 and 365(c) to the above-noted, prior-filed PCT application.

David Bucci
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

UNITED STATES PATENT AND TRADEMARK OFFICE

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

APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/045,529	01/28/2005	1746	1280	2002P00794WOUS	1	23	3

CONFIRMATION NO. 2189

CORRECTED FILING RECEIPT

OC000000021267331

0046726
BSH HOME APPLIANCES CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
100 BOSCH BOULEVARD
NEW BERN, NC 28562

Date Mailed: 11/16/2006

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

Applicant(s)

Gundula Czyzewski, Berlin, GERMANY;
Ingo Schulze, Panketal, 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/EP03/06861 06/27/2003

Foreign Applications

GERMANY 10234472.8 07/29/2002

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 US11/045,529

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Process for eliminating foam in the lye container of a drum washing machine

Preliminary Class

008

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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AUG 29 2007

OFFICE OF PETITIONS

Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

In re Application of	:	
Daniel L. Owen et al.	:	
Application No. 11/045,543	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. SVIPGP019A	:	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 30, 2007.

The request is **APPROVED**.

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

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

All future correspondence will be directed to the first named inventor Daniel L. Owen at the address indicated below.

There is no outstanding Office action at this time.

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

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Daniel L. Owen**
Collaborative Decision Platform, LLC
289 Quinnhill Ave.
Los Altos, CA 94024

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/045,543	01/28/2005	Daniel L. Owen	SVIPGP019A

CONFIRMATION NO. 2187

OC000000025592571

28875
Zilka-Kotab, PC
P.O. BOX 721120
SAN JOSE, CA 95172-1120

Date Mailed: 08/28/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 04/30/2007.

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

G. Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WARD & OLIVO
SUITE 300
382 SPRINGFIELD AVENUE
SUMMIT NJ 07901

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NOV 22 2006

OFFICE OF PETITIONS

In re Application of	:	
Eddie Gindi	:	DECISION ON PETITION TO
Application No. 11/045,583	:	WITHDRAW HOLDING OF
Filed: 28 January, 2005	:	ABANDONMENT
Attny Docket No. 362-004	:	

This is a decision on the petition filed on 18 September, 2006, which is 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 file a response to the Notice to File Missing Parts of Nonprovisional Application mailed on 9 March, 2005. Notice of Abandonment was mailed on 8 November, 2005.

In the petition, applicant asserts that the practitioner did not receive the Notice mailed on 9 March, 2005, or the Notice of Abandonment because both were returned to the USPTO as undeliverable, despite being addressed to the correct correspondence address.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When

Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the final Office action may have been lost after receipt rather than a conclusion that the final Office action was lost in the mail.

In support of the petition, the petitioner has submitted a statement by registered practitioner David M. Hill attesting to the fact that a search of the docketing system indicates that no Office communications were received.

A review of the record indicates that the USPTO mailed the Notice to File Missing Parts mailed on 9 March, 2006, and the Notice of Abandonment mailed on 8 November, 2005, to the correct correspondence address. However, they were inexplicably returned to the USPTO. For this reason, the practitioner did not receive the Notice to File Missing Parts and the Notice of Abandonment.

The petitioner has made a sufficient showing of nonreceipt of the Notice to File Missing Parts. As such, there is no abandonment in fact. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

As such, the holding of abandonment is **withdrawn**. The application is restored to pending status.

The petition is **GRANTED.**

The application file is being referred to the Office of Initial Patent Examination for remailing of the Notice mailed on 9 March, 2005. The period for reply will be reset from the mailing date thereof.

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

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200-19th Street, NW
Washington DC 20036-2402

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Javier Saenz et al.	:	
Application No. 11/045,592	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. VCAT-001/05US	:	FROM RECORD

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Javier Saenz**
10091 Challenger Circle
Spring Valley, CA 91978

cc: **David Olynick, Esq.**
Beyer Weaver & Thomas LLP
500 12th Street, Suite 200
Oakland, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/045,592	01/27/2005	Javier Saenz	VCAT-001/05US

CONFIRMATION NO. 6603

OC000000025144756

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
Washington, DC 20036-2402

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/15/2007.

- 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.

Jessi Williams

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

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Cooley Godward Kronish LLP
Attn: Patent Group
Suite 500
1200-19th Street, NW
Washington DC 20036-2402

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Javier Saenz et al.	:	
Application No. 11/045,593	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. VCAT-001/06US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 14, 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 Kevin Zimmer on behalf of all attorneys of record. All attorneys/agents a 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 July 3, 2007 that requires a reply from the applicant.

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

Terri Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **Javier Saenz**
10091 Challenger Circle
Spring Valley, CA 91978

cc: **David Olynick, Esq.**
Beyer Weaver & Thomas LLP
500 12th Street, Suite 200
Oakland, CA 94607

UNITED STATES PATENT AND TRADEMARK OFFICE

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/045,593	01/27/2005	Javier Saenz	VCAT-001/06US

CONFIRMATION NO. 6607

OC000000025144215

23419
COOLEY GODWARD KRONISH LLP
ATTN: Patent Group
Suite 500
1200 - 19th Street, NW
Washington, DC 20036-2402

Date Mailed: 08/01/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 03/14/2007.

- 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.

Gerri Williams

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

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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 04/20/2010

Applicant	: Yoshiharu Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7595776	: RECALCULATION of PATENT
Issue Date	: 09/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,608	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1278** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Alexandria, VA 22313-1450
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NELSON YOUNG
APARTMENT D8
2766 BARNES AVE.
BRONX NY 10467

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OCT 25 2007

OFFICE OF PETITIONS

In re Application of Young Application No. 11/045,616 Filed: August 6, 2005 Attorney Docket No. N/A For: YOUNG GIANT DRYWALL SCREW COUNTER SINKER DEVICE	DECISION ON PETITION

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed August 20, 2007, 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.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 29, 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 and no reply was filed. Accordingly, the application became abandoned on March 1, 2007.

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 items (1) and (3).

With respect to requirement (1) above, petitioner is reminded that after a final Office action, there are only five possible replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that

makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance.

Petitioner has yet to file a reply to the November 29, 2006 final Office action.

With respect to requirement (3) above, petitioner asserts incapacitation as the cause of unavoidable delay. A showing of "unavoidable" delay based upon incapacitation must establish that petitioner's incapacitation was of such nature and degree as to render petitioner unable to conduct business (*e.g.*, correspond with the Office) from April 6, 2007 through the date a grantable petition is filed. Such a showing must be supported by a statement from petitioner's treating physicians, and such statement must provide the nature and degree of petitioner's incapacitation during this above-mentioned period.

Petitioner is informed that preoccupation with other matters which took precedence over the prosecution of the above-identified application does not constitute unavoidable delay. *See* Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Time and energy expended in prosecuting a criminal case is time and energy **not** applied towards prosecution of an application for patent.

Petitioner 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, petitioner should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

If petitioner cannot provide the evidence necessary to establish unavoidable delay, or simply does not wish to, petitioner may wish to consider filing a petition stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the $770.00 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a

statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

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

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

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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
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

In re Application of
Young
Application No. 11/045,616
Filed: August 6, 2005
Attorney Docket No. N/A
For: YOUNG GIANT DRYWALL SCREW COUNTER SINKER DEVICE

: DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 26, 2007 (certificate of mailing date December 24, 2007), 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(b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 29, 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 and no reply was filed. Accordingly, the application became abandoned on March 1, 2007.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petition does not satisfy requirement (2) above.

The small entity fee for filing a petition to revive an unintentionally abandoned application under 37 CFR 1.137(b) is set forth in 37 CFR 1.17(m) as $770.00. A review of Office records indicates that petitioner has paid only $60.00 towards the fee. The $60.00 was submitted as an extension of time with the present petition. However, the extension of time is unnecessary because the petition was mailed on certificate of mailing date December 24, 2007.

The payment of the petition fee is a prerequisite to the filing of a petition to revive under 37 CFR 1.137(b). This requirement cannot be waived. MPEP 711.03(c)(III)(B). Therefore, consideration of the merits of the petition before receipt of the petition fee is prohibited.

Please submit the balance due, $710.00 with a reconsideration petition. In addition, petitioner is urged to revisit the October 25, 2007 decision on petition—especially the part about a reply to the final Office action still being required.

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

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OFFICE OF PETITIONS

In re Application of
Young
Application No. 11/045,616
Filed: August 6, 2005
Attorney Docket No. N/A
For: YOUNG GIANT DRYWALL SCREW COUNTER SINKER DEVICE

: DECISION ON PETITION

This is a decision on the reconsideration petition under the unintentional provisions of 37 CFR 1.137(b) and the reconsideration petition under 37 CFR 1.137(a), filed January 26, 2008 and supplemented on March 31, 2008, to revive the above-identified application.

The petition under 37 CFR 1.137(a) is **DISMISSED.**

The petition under 37 CFR 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 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C.§ 704.

The application became abandoned for failure to timely reply within the meaning of 37 CFR 1.113 to the final Office action, mailed November 29, 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 and no reply was filed. Accordingly, the application became abandoned on March 1, 2007.

A decision on petition was mailed on January 30, 2008. This decision on petition crossed in the mail with the January 26, 2008 reconsideration petition. Therefore, the present decision addresses both the January 26, 2008 petition and the March 31, 2008 petition.

With respect to the reconsideration petition under 37 CFR 1.137(a), petitioner has provided no additional arguments as to the nature of the unavoidable delay. The decision of October 5, 2007 addressed all stated arguments. The reconsideration petition under 37 CFR 1.137(a) is dismissed.

A grantable petition pursuant to 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. The Director may require additional information where there is a question whether the delay was unintentional; and

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

The instant petitions do not satisfy requirement (1) above.

Petitioner has **not** submitted a proper reply to the November 29, 2006 final Office action. The December 26, 2007 petition states that the reply is "first amended application in error." The March 31, 2008 petition states that the reply is "first amended claims application."

These two replies are not understood and are not acceptable.

Petitioner is reminded that after a final Office action, there are only five possible proper replies: (1) a Notice of Appeal, (2) the filing of a continuing application, (3) a 37 CFR 1.129(a) submission, if appropriate, (4) an amendment after final that makes the case ready for issuance or (5) an RCE. To be a proper reply, an amendment after final must place the case in *prima facie* condition for allowance.

Petitioner must submit one of the above replies with any reconsideration petition.

With respect to finances, petitioner should have paid only a $230.00 extension of time to make the January 26, 2008 petition timely filed. Petitioner has submitted a check for $60.00 on December 26, 2007, a check for $225.00 on January 26, 2008, and a check for $60.00 on March 31, 2008, totaling $345.00. A Treasury check refund for $115 will be scheduled in due course.

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

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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
Senior Petitions Attorney
Office of Petitions

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

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Bogdan Von Rueckmann et al. :
Application No. 11/045,619 :
Filed: January 27, 2005 :
Attorney Docket No. 2004P01553US01 :

This is a decision on the petition filed January 19, 2006 under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on June 2, 2005, for failure to timely reply to the Notice to File Missing Parts, mailed April 1, 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 April 1, 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

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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IP&T CALENDAR DEPARTMENT LA-1118
400 SOUTH HOPE STREET
LOS ANGELES, CA 90071-2899

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FEB 20 2008

OFFICE OF PETITIONS

In re Application of
Ameriga Lazzarini, et al.
Application No. 11/045,628
Filed: January 26, 2005
Attorney Docket No. 892,280-500

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b) to revive the above-identified application, filed November 16, 2007.

The petition is **GRANTED**.

The application became abandoned for failure to pay the issue fee on or before November 14, 2007. On November 16, 2007, the present petition was filed. A Notice of Abandonment was subsequently mailed on November 30, 2007.

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

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

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

[1] 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).

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JOHN ENGELMANN
7000 PORTAGE ROAD
KALAMAZOO, MI 49001

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OFFICE OF PETITIONS

JAMES RAY & ASSOCIATES
2640 PITCAIRN ROAD
MONROEVILLE PA 15146

In re Application of	:	
Ring, et al.	:	
Application No. 11/045,644	:	DECISION
Filed: 28 January, 2005	:	
Attorney Docket No. CRD 05001	:	

This is a decision on the petitions filed on 27 August, 2007, and considered as a request to withdraw the holding of abandonment under 37 C.F.R. §1.181, and on 19 October, 2007, under 37 C.F.R. §1.137(b) to revive the application as abandoned due to unintentional delay.

The petition as considered under 37 C.F.R. §1.181 is **GRANTED**; and the petition under 37 C.F.R. §1.137(b) is **DISMISSED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to a Restriction Requirement mailed on 28 December, 2006, with reply due on or before Monday, 29 January, 2007;
- the application went abandoned after midnight 28 January, 2007;
- the Office mailed a Notice of Abandonment on 21 August, 20007;

- on 27 August, 2007, Petitioner filed a request to withdraw the holding of abandonment with a date stamped (FEB 02 2007") receipt card (see: MPEP §503[1]), however, while the card provided little of the required detail as set forth at MPEP §503 (e.g., application number, title of invention, name of inventor/applicant, technology center/art unit), and nowhere in evidence is the identification of an Election and/or a reply to a Restriction Requirement, nor did Petitioner provide a statement of events with regard to the preparation, mailing/submission and filing of the papers in question (see: generally in this regard, MPEP §711.03(c)), the record evidences that the receipt card did identify the application by Petitioner's docket number (CRD 05001) and refer to the Restriction as an Amendment the (with Transmittal), and the papers in question were in fact received by the Office on 2 February, 2007, having been submitted over a (Monday) 29 January, 2007, certificate of mail under 37 C.F.R. §1.8.

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

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office

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[1] MPEP §503 provides in pertinent part:

§503 Application Number and Filing Receipt

* * *

A return postcard should be attached to *each* patent application for which a receipt is desired. It is important that the return postcard itemize all of the components of the application. If the postcard does not itemize each of the components of the application, it will not serve as evidence that any component which was not itemized was received by the United States Patent and Trademark Office (USPTO). It should be recognized that the identification of an application by application number does not necessarily signify that the USPTO has accepted the application as complete (37 C.F.R. §1.53(a)).

* * *

RETURN POSTCARD

If a receipt of any item (e.g., paper or fee) filed in the USPTO is desired, it may be obtained by enclosing with the paper a self-addressed postcard specifically identifying the item. The USPTO will stamp the receipt date on the postcard and place it in the outgoing mail. A postcard receipt which itemizes and properly identifies the items which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

The identifying data on the postcard should be so complete as to clearly identify the item for which receipt is requested. For example, the postcard should identify the applicant's name, application number (if known), confirmation number (if known), filing date, interference number, title of the invention, etc. The postcard should also identify the type of paper being filed, e.g., new application, affidavit, amendment, notice of appeal, appeal brief, drawings, fees, motions, supplemental oath or declaration, petition, etc., and the number of pages being submitted. If a new application is being filed, all parts of the application being submitted should be separately listed on the postcard, e.g., the number of pages of specification (including written description, claims and abstract), number of claims, number of sheets of drawings, number of pages of oath/declaration, number of pages of cover sheet (provisional application).

The postcard receipt will not serve as *prima facie* evidence of receipt of any item which is not adequately itemized on the postcard. For example, merely listing on the postcard "a complete application" or "patent application" will not serve as a proper receipt for each of the required components of an application (e.g., specification (including claims), drawings (if necessary), oath or declaration and the application filing fee) or missing portions (e.g., pages, sheets of drawings) of an application if one of the components or portion of a component is found to be missing by the USPTO. Each separate component should be specifically and properly itemized on the postcard. Furthermore, merely incorporating by reference in the postcard receipt, the items listed in a transmittal letter will not serve as *prima facie* evidence of receipt of those items.

The person receiving the item(s) in the USPTO will check the listing on the postcard against the item(s) being filed to be sure they are properly identified and that all the items listed on the postcard are presently being submitted to the USPTO. If any of the items listed on the postcard are not being submitted to the USPTO, those items will be crossed off and the post-card initialed by the person receiving the items. Upon return of a postcard receipt from the USPTO, the postcard receipt should be promptly reviewed by the person who filed the items to ensure that every item specifically denoted on the postcard was received by the USPTO. If the postcard receipt has been annotated to indicate that a particular item denoted on the postcard was not received by the USPTO, the postcard receipt will not serve as *prima facie* evidence of receipt of that item in the USPTO. (Emphasis supplied.)

and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]

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

Specifically, the regulations at 37 C.F.R. §10.18 provide:

§ 10.18 Signature and certificate for correspondence filed in the Patent and Trademark Office.
(a) For all documents filed in the Office in patent, trademark, and other non-patent matters, except for correspondence that is required to be signed by the applicant or party, each piece of correspondence filed by a practitioner in the Patent and Trademark Office must bear a signature by such practitioner complying with the provisions of §1.4(d), §1.4(e), or § 2.193(c)(1) of this chapter.
(b) By presenting to the Office (whether by signing, filing, submitting, or later advocating) any paper, the party presenting such paper, whether a practitioner or non-practitioner, is certifying that—
(1) All statements made therein of the party's own knowledge are true, all statements made therein on information and belief are believed to be true, and all statements made therein are made with the knowledge that whoever, in any matter within the jurisdiction of the Patent and Trademark Office, knowingly and willfully falsifies, conceals, or covers up by any trick, scheme, or device a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be subject to the penalties set forth under 18 U.S.C. 1001, and that violations of this paragraph may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom; and
(2) To the best of the party's knowledge, information and belief, formed after an inquiry reasonable under the circumstances, that —
(i) The paper is not being presented for any improper purpose, such as to harass someone or to cause unnecessary delay or needless increase in the cost of prosecution before the Office;
(ii) The claims and other legal contentions therein are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;
(iii) The allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and
(iv) The denials of factual contentions are warranted on the evidence, or if specifically so identified, are reasonably based on a lack of information or belief.
(c) Violations of paragraph (b)(1) of this section by a practitioner or non-practitioner may jeopardize the validity of the application or document, or the validity or enforceability of any patent, trademark registration, or certificate resulting therefrom. Violations of any of paragraphs (b)(2)(i) through (iv) of this section are, after notice and reasonable opportunity to respond, subject to such sanctions as deemed appropriate by the Commissioner, or the Commissioner's designee, which may include, but are not limited to, any combination of —
(1) Holding certain facts to have been established;
(2) Returning papers;
(3) Precluding a party from filing a paper, or presenting or contesting an issue;
(4) Imposing a monetary sanction;
(5) Requiring a terminal disclaimer for the period of the delay; or
(6) Terminating the proceedings in the Patent and Trademark Office.
(d) Any practitioner violating the provisions of this section may also be subject to disciplinary action. See § 10.23(c)(15).
[Added 50 FR 5175, Feb. 6, 1985, effective Mar. 8, 1985; para. (a) revised, 58 FR 54494, Oct. 22, 1993, effective Nov. 22, 1993; paras. (a) & (b) revised, paras. (c) & (d) added, 62 FR 53131, Oct. 10, 1997, effective Dec. 1, 1997; para. (a) revised, 69 FR 56481, Sept. 21, 2004, effective Oct. 21, 2004]

[3] 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 regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[4]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5]

And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

Allegations as to the Request to
Withdraw the Holding of Abandonment

The courts have determined the construct for properly supporting a petition seeking withdrawal of a holding of abandonment.[8]

The commentary at MPEP §711.03(c) provides:

* * *

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

---

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] 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.

[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.

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

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

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

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

37 C.F.R. §1.8(b) also permits applicant to notify the Office of a previous mailing or transmission of correspondence and submit a

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

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

Petitioner appears to have satisfied the showing requirements herein.

Allegations as to
Unintentional Delay

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee

It appears that the instant petition is moot.

CONCLUSION

Petitioner appears to have satisfied the burdens herein, and the petition as considered under 37 C.F.R. §1.181 is **granted**—the 21 August, 2007, Notice of Abandonment is **vacated**; the petition under 37 C.F.R. §1.137(b) is **dismissed as moot** and the fee refunded.

The instant application is released to Technology Center 3600 for further processing in due course.

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[9]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

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

---

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/045,646	01/31/2005	Sadato Hongo	265288US2SRD CONT	3571

22850 7590 04/29/2010
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
BHAT, NARAYAN KAMESHWAR

ART UNIT	PAPER NUMBER
1634	

NOTIFICATION DATE	DELIVERY MODE
04/29/2010	ELECTRONIC

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

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

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

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

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APR 2 9 2010

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Application of :	:
Hongo et al.	:
Serial No.: 11/045,646	: PETITION REGARDING IDS
Filed: January 31, 2005	:
Attorney Docket No: **265288US2SRD CONT**	:

This is in reply to the petition filed April 15, 2010 under 37 CFR § 1.181 to consider the Information Disclosure Statements (IDS) filed in this application with the original application papers on January 31, 2005 and on May 21, 2009 be fully acknowledged as considered.

Applicants point out "for the IDS filed January 31, 2005, in an Office Action of April 12, 2007, a returned Form PTO-1449 was provided, but that form lined through listed references AT and AV. That Office Action did not provide any explanation as to why those references were not considered. Applicants further point out "another IDS was filed in this present application on May 21, 2009, which cited a reference AO. With the Office Action of July 6, 2009, the Form PTO-1449 for that IDS was provided, which appears to have inadvertently not initialed consideration of reference AO. That reference was not lined through and was not indicated as not considered, but again apparently was inadvertently not initialed." Applicants request a new Form PTO-1449 for the IDSs filed January 31, 2005 and May 21, 2009 showing consideration of all the references.

DISCUSSION

Applicants points are well taken that the record in unclear.

DECISION

The petition is **GRANTED.**

This application will be forwarded to the examiner for consideration of the IDSs filed on January 31, 2005 and May 21, 2009. In the event the references on the January 31, 2005 IDS are still not considered, the examiner will provide an explanation as to the reason why.

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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Blakely Sokoloff Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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OFFICE OF PETITIONS

In re Application of
Gary B. Rohrabaugh et al.
Application No. 11/045,649
Filed: January 28, 2005
Attorney Docket No. 007342.P001XD2

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 2, 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 James Y. Go and all attorneys/agents of record has been revoked by the applicant of the patent application on May 22, 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: Law Office of R. Alan Burnett
4108 131st Avenue SE
Bellevue, WA 98006

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

Mail Date: 05/05/2010

Applicant	: Jan Boese	: DECISION ON REQUEST FOR
Patent Number	: 7630751	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **630** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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UNITED STATES PATENT AND TRADEMARK OFFICE

Art Unit: 3683

In re:

Applicant: SHVARTSMAN, et al

For: Anti-Detonation...

Serial No.: 11/045,659

Art Unit: 1714

Filed: 01/31/05

PETITION TO MAKE APPLICATION SPECIAL

I hereby certify that this correspondence is being deposited with the United States Postal Service by First Class Mail on the date indicated above and is addressed to the Assistant Commissioner of Patents and Trademarks, P. O. Box 1450 Alexandria, VA. 22313-1450

ILYA ZBOROVSKY

Commissioner for Patents
P. O. Box 1450
Alexandria, Virginia

Sir:

The Inventor of this application, in particular Mr. Shvartsman was in born in 1928, therefore he is over 65 years old.

It is respectfully requested to grant this petition

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JAN 1 8 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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Ilya Zborovsky
6 Schoolhouse Way
Dix Hills NY 11746

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OFFICE OF PETITIONS

In re Application of :
Leonid Shvartsman et al :
Application No. 11/045,659 : DECISION ON PETITION
Filed: January 31, 2005 :
For: ANTI-DETONATION ADDITIVE :
AND FUEL PROVIDED THEREWITH

This is a decision on the petition under 37 CFR 1.137(b), filed September 17, 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 July 13, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed April 13, 2007. Accordingly, the date of abandonment of this application is July 14, 2007. A Notice of Abandonment was mailed on August 8, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $700 and the publication fee of $300, (2) the petition fee of $750, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

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

This application is being referred to Publishing Division for appropriate processing in accordance with this decision on petition.

Frances Hicks
Petitions Examiner
Office of Petitions

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COMMISSIONER FOR PATENTS
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JUL -1 2005

In re Application of Yuk Cheung et al. Serial No. 11/045,661 Filed: January 31, 2005 For: POKER STYLE GAME AND METHOD	: : : : : :	DECISION ON PETITION TO MAKE SPECIAL

Applicants' petition, filed January 31, 2005, requests that this application be rendered special for examination in that applicant is over sixty-five (65) years of age.

The petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(IV) of the Manual of Patent Examining Procedure (MPEP).

PETITION GRANTED.

Richard A. Bertsch, Director
Technology Center 3700

William W. Haefliger
201 So. Lake Avenue, Suite 512
Pasadena, CA 91101

UNITED STATES PATENT AND TRADEMARK OFFICE

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Paul, Hastings, Janofsky & Walker, LLP
875 15th Street, NW
Washington, DC 20005

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OFFICE OF PETITIONS

In re Application of	:	
Xiaowu Liang et al.	:	
Application No. 11/045,686	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 57830.00008.CONC1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 12, 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 Jane I. Song and all attorneys/agents of record has been revoked by the assignee of the patent application on January 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 Kimberly Inabinet at 571-272-4618.

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Knobbe Martens Olson & Bear, LLP
2040 Main Street
Fourteenth Floor
Irvine, CA 92614

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60 EAST SOUTH TEMPLE
SALT LAKE CITY, UT 84111

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OFFICE OF PETITIONS

In re Application of	:	
Wayne G. King, et al.	:	
Application No. 11/045,687	:	DECISION GRANTING PETITION
Filed: January 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 13768.810.24	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed November 21, 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 September 30, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center AU 2618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (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.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS
INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

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OFFICE OF PETITIONS

In re Application of

Jordanger, et al.

Application No. 11/045,709

Filed: January 28, 2005

Attorney Docket No. TI-38661

DECISION ON PETITION

This is a decision on petition under 37 CFR 1.137(b), filed December 19, 2006, to revive the above-identified application.

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

This application became abandoned for failure to respond in a timely manner to the Notice of Allowance and Issue Fee Due mailed September 12, 2006. The notice allowed a statutory period for reply of three months from its mailing date. No reply was received within the allowable period, and the application became abandoned on December 13, 2006.

Form PTOL-85B, the issue fee payment and publication fee were received on December 19, 2006.

The application is being forwarded to the Office of Patent Publications for further processing.

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

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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CHRISTIE PARKER & HALE, LLP
P.O. BOX 7068
PASADENA, CA 91109-7068

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OFFICE OF PETITIONS

In re Application of	:	
Donald G. Richardson	:	
Application No. 11/045,716	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 05PLI1356	:	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 power of attorney to D. Bruce Prout and others has been revoked by the applicant of the patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.136(b) is moot.

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

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

Amelia Au
Petitions Examiner
Office of Petitions

cc: Albert O. Cota
5460 White Oak Ave.
Suite A-331
Encino, CA 91316

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 9, 2009

TO SPE OF : ART UNIT 3635 - SPE Richard E. Chilcot.

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045,723 Patent No.: 7,591,115 B2

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (CofC)
Randolph Square Building
2800 South Randolph Street
Arlington, VA 22206

Antonio Johnson

Should claim for priority be entered?

Certificates of Correction Branch

(571)272-0483

Thank You For Your Assistance

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

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

Comments: _____

RICHARD E. CHILCOT, JR.
SUPERVISORY PATENT EXAMINER

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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ABELMAN, FRAYNE & SCHWAB
666 THIRD AVENUE, 10TH FLOOR
NEW YORK, NY 10017

Mail Date: 04/21/2010

Applicant	: Richard J. Morris	: DECISION ON REQUEST FOR
Patent Number	: 7591115	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,723	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1044** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

@PFDesktop\::ODMA/MHODMA/HBSR05;iManage;528115;1
AOC/KJW/(jm)
01/28/05

PATENT APPLICATION
Attorney's Docket No.: 3194.1002-003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Jeffrey M. Campbell, J. Karl Niermeyer, Gaston de los Reyes, Christopher R. Wargo, Richard L. Miller and Stephen K. Guerrera

Application No.: To Be Assigned 11/045726 Group: Unknown 1723

Filed: January 28, 2005 Examiner: Unknown

Confirmation No.: Unknown

Priority: Application is a Divisional of U.S. Serial No. 10/440,458, filed May 16, 2003, which is a Continuation application of U.S. Serial No. 10/079,360, filed February 20, 2002, which is a Divisional of 09/113,837 filed July 10, 1998 (U.S. Patent No. 6,378,907), which is a Continuation-in-Part of 08/678,795, filed July 12, 1996 (U.S. Patent No. 6,068,770)

For: CONNECTOR APPARATUS AND SYSTEM INCLUDING CONNECTOR APPARATUS

Date: January 28, 2005

EXPRESS MAIL LABEL NO. EL 955641286 US

PETITION TO MAKE SPECIAL

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
ATTN: Special Program Examiner

Sir:

Pursuant to 37 C.F.R. 1.102(d), Applicants petition to make the captioned application special in order to expedite processing of the application.

This petition is made because of actual infringement and is supported by the following statements of the undersigned:

A) There is an infringing product actually on the market;

B) I have made a rigid comparison of the infringing product with the claims of the

02/04/2005 MBELETE1 00000051 11045726
04 FC:1464 130.00 OP

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAR 16 2005

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 5/22/06

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/045726 Patent No.: 7037424

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**.

HENRY RANDALL
Certificates of Correction Branch
703-308-9390 ext.

Thank You For Your Assistance

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

Note your decision on the appropriate box.

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

Comments: OK to delete Patent claim 6.

Daniel P Stodola — SPE

3679 — Art Unit

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O'BANION & RITCHEY LLP/ SONY ELECTRONICS, INC.
400 CAPITOL MALL
SUITE 1550
SACRAMENTO, CA 95814

Mail Date: 04/21/2010

Applicant	: Tohru Doumuki	: DECISION ON REQUEST FOR
Patent Number	: 7616762	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,734	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: 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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530 VIRGINIA ROAD, P.O. BOX 9133
CONCORD, MA 01742-9133

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NOV 0 7 2005

OFFICE OF PETITIONS

In re Application of :
Donald L. Brown :
Application No. 11/045,741 :
Filed: January 28, 2005 :
Attorney Docket No. 3414.1002-001 :

ON PETITION

This is a decision on the petition under 37 CFR 1.313(c), filed November 4, 2005, which is being treated under 37 CFR 1.313(c)(2), to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on October 20, 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 Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2839 for processing of the request for continued examination under 37 CFR 1.114 , for consideration of the concurrently filed Amendment and IDS.

Wan Laymon
Petitions Examiner
Office of Petitions

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

UNITED STATES PATENT AND TRADEMARK OFFICE

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Blakely Sokoloff Taylor & Zafman, LLP
1279 Oakmead Parkway
Sunnyvale, CA 94085-4040

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JUN 0 3 2009

OFFICE OF PETITIONS

In re Application of
Gary B. Rohrabaugh et al.
Application No. 11/045,757
Filed: January 28, 2005
Attorney Docket No. 007342.P001XD

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 2, 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 James Y. Go and all attorneys/agents of record has been revoked by the applicant of the patent application on May 22, 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: Law Office of R. Alan Burnett
4108 131st Avenue SE
Bellevue, WA 98006

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COMMISSIONER FOR PATENTS
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Paper No.

LAW OFFICE OF R. ALAN BURNETT
4108 131ST AVE. SE
BELLEVUE WA 98006

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SEP 16 2009

OFFICE OF PETITIONS

In re Patent No. 7,461,353	:	
Rohrabaugh et al.	:	
Issue Date: December 2, 2008	:	DECISION ON APPLICATION
Application No. 11/045,757	:	FOR
Filed: January 28, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 7342.P001XD	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT 37 C.F.R. §1.705," filed January 24, 2009, requesting reconsideration of the initial determination of patent term adjustment under 35 U.S.C. 154(b) of 376 days.

The application for patent term adjustment under § 1.705(b) is **DISMISSED AS UNTIMELY FILED**.

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 376 days.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

With regard to the application under 37 CFR 1.705(b), 35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

On August 8, 2008, the Office mailed a 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 376 days. This determination was based in part on the period of adjustment of 505 days associated with the Office's mailing of a first Office action on August 15, 2007. PALM records indicate that the issue fee payment was received in the Office on August 8, 2008. No filing of an application for patent term adjustment preceded the payment of the issue fee. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended August 8, 2008. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

> If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

The issues raised should have been timely raised on application for patent term adjustment under § 1.705(b).

With regard to the application under 37 CFR 1.705(d), this application was filed on January 28, 2005. On August 8, 2008, the Office mailed a notice that the initial determination of patent term adjustment under 35 U.S.C. 154(b) to date is 376 days[1]. On December 2, 2008, the application matured into U.S. Patent No. 7,461,353, with a revised patent term adjustment of 376 days. The Office determined that the 309 days of Office

[1] 593 days of Office delay was reduced by 217 days of applicant delay for a patent term adjustment of 376 days. No request for reconsideration of this initial determination was filed.

delay pursuant to 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b)[2,3] overlaps with the 593 days of Office delay pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1)[4,5] accorded prior to the filing of the request for continued examination. As such, the Office allowed only entry of the adjustment of 593 days. No additional days of patent term adjustment were entered at issuance under the three-year pendency provision. Given the applicant delay of 217 days, the patent issued with a revised patent term adjustment of 376 (593 - 217) days.

On January 24, 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

---

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

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

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

[3] As of the issuance of the patent on December 2, 2008, the application was pending three years and 309 days.

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

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

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

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

[5] A first Office action was not mailed until August 15, 2007, fourteen months and 505 days after the application filing date, January 28, 2005.

Adjustment is 597 days under the courts interpretation of the overlap provision as set forth in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentee asserts that pursuant to Wyeth, a PTO delay under §154(b)(1)(A) overlaps with a delay under §154(b)(1)(B) only if the delays "occur on the same day." Patentee maintains that the total non-overlapping PTO delay under §154(b)(1)(A) & (B) is 814 (593 + 221) days as these periods do not occur on the same day.[6] Further, given the applicant delay of 217 days, patentee asserts entitlement to 597 (814 - 217) days of patent term adjustment.

OPINION

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

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

As explained in *Explanation of 37 CFR 1.703(f)*[7] *and of the United States Patent and Trademark Office Interpretation of 35 U.S.C. 154(b)(2)(A)*, 69 Fed. Reg. 34283 (June 21, 2004), the Office interprets 35 U.S.C. 154(b)(2)(A) as permitting either patent term adjustment under 35 U.S.C. 154(b)(1)(A)(i)-(iv), or patent term adjustment under 35 U.S.C. 154(b)(1)(B), but not as permitting patent term adjustment under both 35 U.S.C. 154(b)(1)(A)(i)-(iv) and 154(b)(1)(B). Accordingly, the Office implements the overlap provision as follows:

---

[6] Patentees state that the overlapping period is 88 days. This is the entire period between the day after the date that was four (4) months after the filing of the reply on January 12, 2008, and the date of the mailing of the Notice of Allowance on August 8, 2008, 88 days later.

[7] Likewise, 37 CFR 1.703(f) provides that:

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

> If an application is entitled to an adjustment under 35 U.S.C. 154(b)(1)(B), the entire period during which the application was pending (except for periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)), and not just the period beginning three years after the actual filing date of the application, is the period of delay under 35 U.S.C. 154(b)(1)(B) in determining whether periods of delay overlap under 35 U.S.C. 154(b)(2)(A). Thus, any days of delay for Office issuance of the patent more than 3 years after the filing date of the application, which overlap with the days of patent term adjustment accorded prior to the issuance of the patent will not result in any additional patent term adjustment. See 35 U.S.C. 154(b)(1)(B), 35 U.S.C. 154(b)(2)(A), and 37 CFR § 1.703(f). See *Changes to Implement Patent Term Adjustment Under Twenty Year Term; Final Rule*, 65 Fed. Reg. 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 28, 2005, and ending on the date the application matured into U.S. Patent No. 7,461,353, December 2, 2008 (not including any other periods excluded under 35 U.S.C. 154(b)(1)(B)(i)-(iii)).

Pursuant to 35 U.S.C. 154(b)(1)(A) and 37 CFR 1.702(a)(1), 593 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), 309 days of patent term adjustment accrued for Office issuance of the patent more than 3 years after the filing date of the application.

All of the 309 days of patent term adjustment under 37 CFR 1.702(b) overlap with the 593 days of patent term adjustment under 37 CFR 1.702(a)(1). Entry of both the 309 days and the 593 days is neither permitted nor warranted. 593 days is the actual number of days issuance of the patent was delayed.

Accordingly, at issuance, the Office properly entered no additional days pursuant to 37 CFR 1.702(b).

CONCLUSION

In view thereof, the Office affirms that the revised determination of patent term adjustment at the time of the issuance of the patent is 376 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.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

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BAKER & DANIELS LLP
300 NORTH MERIDIAN STREET
SUITE 2700
INDIANAPOLIS IN 46204

MAILED

JUN 24 2010

OFFICE OF PETITIONS

In re Application
Victor A. Kelson et al.
Application No. 11/045,759
Filed: January 28, 2005
Attorney Docket No. WHPA-P002-01

: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed February 12, 2010. Applicant requests that the determination of patent term adjustment be corrected from 405 to 914 days, in part 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 patent term adjustment relating to those provisions 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).

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).

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.

Anthony Knight
Director
Office of Petitions

[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

Jeffer, Mangels, Butler & Marmaro, LLP
1900 Avenue of the Stars, 7th Floor
Los Angeles, CA 90067

In re Application of	:	
Jonathan V. Caspar et al.	:	
Application No. 11/045,769	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 57204-5005	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 3, 2007.

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

A review of the file record indicates that the power of attorney to George G.C. Tseng and all attorneys/agents associated with customer number 24574 has been revoked by the assignee of the patent application on May 1, 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.

Frances Hicks
Petitions Examiner
Office of Petitions

cc: Harris Beach, PLLC
99 Gamsey Road
Pittsford, NY 14534

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LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

Mail Date: 04/21/2010

Applicant	: Masahiro Yasue	: DECISION ON REQUEST FOR
Patent Number	: 7646923	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1386** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 03/29/10

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11045782 Patent No.: 7228104

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580

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

Lamonte Newsome
Certificates of Correction Branch
703-756-1574

Thank You For Your Assistance

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

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

Comments: _____

Ahmad Matar
SPE

2614
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 03/29/10

TO SPE OF : ART UNIT 2614

SUBJECT : Request for Certificate of Correction for Appl. No.: 11045782 Patent No.: 7228104

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

FOR IFW FILES:

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

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

FOR PAPER FILES:

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

Certificates of Correction Branch (C of C)
Randolph Square 9D40-D
Palm Location 7580
[redacted]

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: _____

Ahmad Matar
SPE

2614
Art Unit

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P.O. Box 1450
Alexandria, VA 22313-1450
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HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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NOV 20 2006
OFFICE OF PETITIONS

In re Application of	:	
Xingwu Wang, et al.	:	
Application No. 11/045,790	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. XW-794	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 30, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Howard J. Greenwald, P.C. has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

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

April M. Wise
Petitions Examiner
Office of Petitions

cc: NANOSET, LLC
349 WEST COMMERICAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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
11/045,790	01/28/2005	Xingwu Wang	XW-794

CONFIRMATION NO. 2887

OC000000021279930

OC000000021279930

Nanoset, LLC
Suite 2490
349 West Commercial Street
East Rochester, NY 14445

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/30/2006.

- 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).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

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BASCH & NICKERSON LLP
1777 PENFIELD ROAD
PENFIELD, NY 14526

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JUL 0 2 2009

OFFICE OF PETITIONS

In re Application of	:	
Wang et al.	:	DECISION ON PETITION
Application No. 11/045,790	:	TO WITHDRAW
Filed: January 28, 2005	:	FROM RECORD
Attorney Docket No. 1008 076 301 0251	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed March 5, 2009.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to practitioners, Duane C. Basch and Michael J. Nickerson were revoked by the assignee of the patent application on February 17, 2009. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

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

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-6059.

Alicia Kelley
Petitions Examiner
Office of Petitions

cc: BIOPHAN TECHNOLOGIES, INC.
15 SCHOEN PLACE
PITTSFORD, NY 14534

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James H. Morris
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, MA 02210-2206

Mail Date: 04/21/2010

Applicant	: Marc Huylebroeck	: DECISION ON REQUEST FOR
Patent Number	: 7653017	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,806	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **632** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

TMH:dv 01/27/05 6457-64294-03

Express Mail Label No. EV514605751US
Date of Deposit: January 27, 2005

22764 U.S.PTO 012705

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Knezevic et al.
Application No. 11/045,831
Filed: Herewith 1-27-05
Confirmation No. _____
For: RAPID ASSAY, METHOD AND SYSTEM FOR DETECTING BIOWARFARE AGENTS
Examiner: Alexander, Lyle
Art Unit: 1743
Attorney Reference No. 6457-64294-03

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PETITION TO MAKE SPECIAL AND STATEMENT IN SUPPORT THEREOF

Applicants hereby petition to make this new application, which has not received any examination by an examiner, special on the grounds that it claims an invention for countering terrorism (as defined in 18 U.S.C. 2331).

The subject patent application provides methods of detecting biological material, including particularly biowarfare agents such as microorganisms, biological toxins, and the like, and kits for use in such methods. This invention contributes to countering terrorism by providing rapid and easy assays for testing powders and other samples suspected of containing a biowarfare agent to determine if biological material is present. The provided methods permit the elimination of a variety of ordinary safe substances from being subjected to further testing. This provides clear benefits in dealing with terrorism.

02/04/2005 SDIRETA1 00000048 11045831
01 FC:1464 130.00 OP

PETITION GRANTED

William Krynski
Special Program Examiner
Technology Center 1700
JAN 1 8 2006

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

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OFFICE OF PETITIONS

In re Application of	:	
Lars Konig.	:	
Application No. 11/045,852	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. 11336-881 (P03065US)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 15, 2009.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Harman – Brinks Hofer Chicago, Brinks, Hofer, Gilson & Lione has been revoked by the assignee of the patent application on June 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 undersigned at 571-272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

cc: ROBERT P. HART, ESQ.
HARMAN INTERNATIONAL INDUSTRIES, INCORPORATED
8500 BALBOA BOULEVARD
NORTHBRIDGE, CA 91329

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HICKMAN PALERMO TRUONG & BECKER, LLP
2055 GATEWAY PLACE
SUITE 550
SAN JOSE CA 95110

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APR 2 6 2010

OFFICE OF PETITIONS

In re Application of	:	
Sunil K. Srivastava, et al.	:	
Application No. 11/045,858	:	DECISION GRANTING PETITION
Filed: January 27, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 50325-1038	:	

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

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on March 22, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2195 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

Terri Johnson
Petitions Examiner
Office of Petitions

---

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

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Paper No. 062105

KEIJI IIMURA
10-8, AKATSUKA 3-CHOME
ITABASHI-KU
TOKYO 175-0-092 JP JAPAN

JUN 27 2005

In re Application of:	:	
KEIJI IIMURA	:	DECISION ON PETITION
Serial No.: 11/045,859	:	TO MAKE SPECIAL
Filed: January 31, 2005	:	
Attorney Docket No.: none	:	

This is a decision on the petition under 37 C.F.R. § 1.102(c), filed January 31, 2005, to make the above-identified application special.

Petitioner requests that the above-identified application be made special under the accelerated examination procedure set forth in the Manual of Patent Examining Procedure (M.P.E.P.) § 708.02, Section IV: Applicant's Age.

A grantable petition to make special under 37 C.F.R. § 1.102, and in accordance with M.P.E.P. § 708.02, Section IV, must include evidence showing that the applicant is sixty five (65) years of age or more. No fee is required for this petition.

The petition includes a declaration from, Keiji Iimura, stating that the he is sixty-five (65) years of age or more and a copy of a passport issued by the Japanese Government..

Accordingly, the petition is GRANTED.

After allowance, this application will be given priority for printing. See M.P.E.P. § 1309.

Inquiries regarding this decision should be directed to Clayton LaBalle at (571) 272-1594.

Clayton E. LaBalle, Special Programs Examiner
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

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c/o Royal W. Craig
120 East Baltimore Street
Baltimore, MD 21202

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In re Application of	:	
Hok Lin Man	:	
Application No. 11/045,863	:	DECISION ON PETITION
Filed: January 29, 2005	:	
Attorney Docket No. MAN-PA-3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 26, 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 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 January 31, 2008. A Notice of Abandonment was mailed on May 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 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.

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

This application is being referred to Technology Center AU 1794 for appropriate action by the Examiner in the normal course of business on the reply received June 26, 2008.

Carl Friedman
Petitions Examiner
Office of Petitions

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SCHIFF HARDIN LLP
Patent Department
6600 Sears Tower
233 South Wacker Drive
Chicago IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Danz Gunter et al.	:	
Application No. 11/045,892	:	DECISION ON PETITION
Filed: January\ 28, 2005	:	
Attorney Docket No. P05, 0001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 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 January 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed October 3, 2005. Accordingly, the date of abandonment of this application is January 4, 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 $1400 and the publication fee of $300, (2) the petition fee of $1500; 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 Terri Williams at (571) 272-2991.

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

Liana Walsh
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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MICHAEL C. POPHAL
EVEREADY BATTERY COMPANY INC
25225 DETROIT ROAD
P O BOX 450777
WESTLAKE, OH 44145

Mail Date: 05/20/2010

Applicant	: David A. Kaplin	: DECISION ON REQUEST FOR
Patent Number	: 7618742	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,900	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

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

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

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

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

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

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MICROSOFT CORPORATION
C/O LYON & HARR, LLP
300 ESPLANADE DRIVE
SUITE 800
OXNARD, CA 93036

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OFFICE OF PETITIONS

In re Application of
Erin Renshaw, et al.
Application No. 11/045,926
Filed: January 27, 2005
Attorney Docket No. MCS-060C-04 (310428.03)

ON PETITION

This is a decision in response to the petition, filed July 10, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 4, 2007, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the application became abandoned on September 5, 2007. A Notice of Abandonment was mailed on December 19, 2007. On July 10, 2008, the present petition was filed.

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

The application is being referred to Technology Center AU 2167 for appropriate action by the Examiner in the normal course of business on the response filed July 10, 2008.

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

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

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Victor J.Castellucci, Esq.
Kenyon & Kenyon LLP
333 West San Carlos Street
Suite 600
San Jose, CA 95110

Mail Date: 04/21/2010

Applicant	: Matthew T. Reynolds	: DECISION ON REQUEST FOR
Patent Number	: 7577935	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,928	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **681** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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JONES DAY
222 EAST 41ST ST
NEW YORK NY 10017

In re Application of	:	
Philip H. Mudge	:	
Application No. 11/045,931	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 11635-0011-999	:	

This is a decision on the petition to withdraw the holding of abandonment under 37 CFR 1.181, filed January 7, 2009.

The petition is **GRANTED**.

The above-identified application was held abandoned for failure to timely file a proper response to the final Office action, mailed November 1, 2007. This Office action set a shortened statutory period for reply of three (3) months. Applicant filed an Amendment on December 31, 2007. However, the Office informed Applicants in an Advisory Action mailed January 25, 2008 that the Amendment did not place the application in condition for allowance. The Office mailed a Notice of Abandonment on December 19, 2008, stating that no reply had been received.

A review of the application file reveals the presence of a Notice of Appeal and Pre-Appeal Brief Request for Review, both filed on March 21, 2008, made timely by obtaining a two month extension of time. Further, a review of Office records indicates that the Office received the fees for the Notice of Appeal and extension of time. Accordingly, it is concluded that the Notice of Abandonment was mailed in error.

In view thereof, **the holding of abandonment is withdrawn**.

The matter is being forwarded to Group Art Unit 2612 for consideration of the Pre-Appeal Brief Request for Review, filed March 21, 2008.

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

Cliff Congo
Petitions Attorney
Office of Petitions

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JOHN S. PRATT, ESQ
KILPATRICK STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Philip H. Mudge	: DECISION ON REQUEST FOR
Patent Number	: 7576647	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/045,931	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **806** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

Mail Date: 05/18/2010

Applicant : Philip H. Mudge
Patent Number : 7576647
Issue Date : 08/18/2009
Application No : 11/045,931
Filed : 01/28/2005

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

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MAR 10 2008

OFFICE OF PETITIONS

In re Patent No. 7,294,678	:	
Issued: November 13, 2007	:	
Application No. 11/045,938	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 20866/0202227-US0	:	

This is a decision on the petition under 37 C.F.R. § 1.182, filed November 14, 2007, to change the name of an inventor. A Request for Certificate of Correction has also been submitted.

The petition is **GRANTED.**

The name will be changed from Whitney A. Williams to Whitney Williams Ginter.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction reflecting the inventor's name change.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

Liana Walsh
Petitions Examiner
Office of Petitions

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OFFICE OF PETITIONS

ON PETITION

In re Patent No. 7,294,678	:	
Issued: November 13, 2007	:	
Application No. 11/045,938	:	
Filed: January 28, 2005	:	
Attorney Docket No. 20866/0202227-US0	:	

This is a decision on the petition, filed December 19, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to add the assignee's name to the issued patent.

The request is **DISMISSED**.

37 CFR 3.81(a) permits the patent to issue to the assignee, provided that, at the time the issue fee is paid, the name of an assignee is provided. 37 CFR 3.81(b) permits the patent to issue in the name of an assignee if the assignment was submitted after payment of the issue fee but ***prior to issuance of a patent***. Patent and Trademark Office assignment records disclose that an assignment from "Regent Medical Limited" to "Apex Medical Technologies, Inc." was recorded on December 5, 2007, after the date of issuance of this patent.

Accordingly, since the assignment was not submitted for recordation until after issuance of this patent, issuance of a certificate of correction would not be proper. *See* MPEP Section 307.

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

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *See* Official Gazette of June 22, 2004

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BRIDGESTONE AMERICAS HOLDING, INC.
1200 FIRESTONE PARKWAY
AKRON OH 44317

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FEB 20 2009

OFFICE OF PETITIONS

In re Application of	:	
Hiroyuki Fudemoto et al	:	
Application No. 11/045,950	:	DECISION GRANTING PETITION
Filed: January 28, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. P04010US1A	:	

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 February 9, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

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

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

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

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

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AUG -8 2006

SD3, LLC
25977 S.W. Canyon Creek Road, Suite G
WILSONVILLE OR 97070

In re Application of: GASS, STEPHEN ET AL. Serial No.: 11/045,972 Filed: January 28, 2005 Docket: SDT 352 Title: TABLE SAWS WITH SAFETY SYSTEMS AND SYSTEMS TO MOUNT AND INDEX ATTACHMENTS	DECISION ON REQUEST FOR PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the petition filed on July 3, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

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

In support of the petition, petitioner provides: a) the applicable fee; b) a statement that all claims are directed towards a single invention, or if the Office determines that all presented claims are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made on the USPTO database in Class 83, subclasses 102.1, 477.2, and 478; and Class 144, Subclass 286.1; d) a copy of each reference; and e) a detailed discussion of the references.

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

The requirements of MPEP § 708.02(VIII)(a), (b), (c) and (d) are considered to have been met. However, the petition does not meet the requirements of MPEP § 708.02(VIII)(e).

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in view of the state of the art disclosed by the references cited or the objections made." Applicant provides a detailed discussion of each reference cited but does not point out the particular language that distinguishes independent claim 1 from these references. Applicant's repeated general allegation that the applicant's claims are patentable over the various references for the same reasons concerning Schoene runs contrary to 37 CFR § 1.111 (b), which does not allow for general allegations. Rather, each independent claim should be compared with each reference, and the differences between the two must be clearly stated. For example, in the discussion of reference eight, the applicant argues "Applicant's claims are patentable over these devices for the same reasons given above concerning Schoene. Instead of a clamping structure as recited in applicant's claims, these devices include a spring-loaded rod, a splitter that is pushed down, or a knob that is turned." In contrast, in the discussion of reference 7, the applicant only argues "Applicant's claims are patentable over Sommerville for the same reasons given above concerning Schoene." For *each* reference, the applicant must point out the specific differences between the reference and the language of independent claim 1. Because the petition does not point out the specific language in the independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

For the above-mentioned reasons, the petition is dismissed. The application will, therefore, be taken up by the examiner for action in its regular turn.

Any request for reconsideration of this decision must be submitted within 2 (two) months of the date of this decision in order to be considered timely. Any request for reconsideration must provide a detailed discussion of each reference that clearly points out the specific language in the independent claim that distinguishes over the reference. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Petition DISMISSED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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SD3, LLC
25977 S.W. Canyon Creek Road, Suite G
WILSONVILLE OR 97070

mailed 1/4/07

In re Application of:
GASS, STEPHEN ET AL.
Serial No.: 11/045,972
Filed: January 28, 2005
Docket: SDT 352
Title: TABLE SAWS WITH SAFETY SYSTEMS AND SYSTEMS TO MOUNT AND INDEX ATTACHMENTS

DECISION ON REQUEST FOR PETITION TO MAKE SPECIAL FOR NEW APPLICATION UNDER 37 C.F.R. § 1.102 & M.P.E.P. § 708.02 (VIII)

This is a decision on the August 15, 2006 request for reconsideration of the petition filed on August 5, 2006 to make the above-identified application special under the accelerated examination procedure set forth in MPEP § 708.02(VIII) and in accordance with 37 C.F.R. § 1.102(d).

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

For accelerated examination under MPEP § 708.02(VIII) in accordance with 37 C.F.R. § 1.102(d), a showing of the following is required: a) the applicable petition fee; b) all claims are directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, applicant will make an election without traverse; c) a statement that a pre-examination search was made, listing the field of search by class and subclass; d) a copy of each of the references deemed most closely related to the claimed subject matter; and e) a detailed discussion of the references pointing out with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is distinguishable over the references.

As previously acknowledged, the requirements of MPEP § 708.02(VIII)(a), (b), (c) and (d) are considered to have been met. However, the renewed petition with the request for reconsideration filed on Aug. 15, 2006 still does not meet the requirements of MPEP § 708.02(VIII)(e).

Regarding the requirement of MPEP § 708.02(VIII)(e), 37 CFR § 1.111 (b) states "[a] general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references does not comply with the requirements of this section." 37 CFR § 1.111 (c) states in part "the applicant or patent owner must clearly point out the patentable novelty which he or she thinks the claims present in

view of the state of the art disclosed by the references cited or the objections made." Applicant provides a detailed discussion of each reference cited but does not point out the particular language that distinguishes independent claim 1 from these references.

In the renewed petition, the explanation and the distinction of U. S. Pats. 4625604; 6170370; 6840144 and 6986370 and 12 non-patent literature documents were provided which satisfied the provision of MPEP § 708.02(VIII)(e). However, the petition remains silent regarding other cited prior art references as listed in Forms 1449 filed on Dec. 15, 2006 (35 references cited); Jul. 5, 2006 (4 references cited); Jul. 3, 2006 (23 references cited); Mar. 12, 2006 (54 references cited); Jan. 20, 2006 (46 references cited); Oct. 8, 2005 (19 references cited); Oct. 5, 2005 (2 references cited); Jul 23, 2005 (40 references cited); Jun 7, 2005 (38 references cited); Jun 6, 2005 (85 references cited); Jun 6, 2005 (40 references cited); Jun 6, 2005 (40 references cited); Jun 6, 2005 (40 references cited); Jun 6, 2005 (41 references cited); Jun 6, 2005 (40 references cited); Jun 6, 2005 (42 references cited); Jun 6, 2005 (43 references cited); Jun. 6, 2005 (30 references cited) and Apr. 27, 2005 (18 references cited). To date, there were a total of 680 references cited by the applicant and listed on Forms 1449. The petitioner has only explained 16 of those 680 references cited. Petitioner did not discuss in any manner the remaining 664 references listed on the Forms 1449, nor indicate clearly why these 664 references were not discussed. Therefore, there are 664 references need to be explained. Currently, the petitioner has not provided any comparison to claim 1 or discussion of patentable distinctness of the claim 1 with respect to each of the remaining 664 references cited. Presumably all of the 664 references were considered relevant to the instant claim 1 if they were uncovered during the pre-examination search. In order for the petition to be granted, the petitioner must point out the specific differences between each reference and the language of independent claim 1. Because the renewed petition does not point out the specific language in the independent claim that distinguishes over each reference, it fails to meet the requirements of MPEP § 708.02(VIII)(e).

While Technology Center Directors may have granted petitions that do not comply with the detailed discussion requirement of the Accelerated Examination procedure, Technology Center Director decisions on petitions are not binding precedent of the Patent Examining Corps, and the application of an improper standard in certain cases does not require the Office to continue to apply the improper standard in all cases. *See In re The Boulevard Entertainment, Inc.*, 334 F.3d 1336, 1343, 67 USPQ2d 1475, 1480 (Fed. Cir. 2003).

For the above-mentioned reasons, the petition is dismissed. The application will, therefore, be taken up by the examiner for action in its regular turn. Any inquiry regarding this decision should be directed to Henry Yuen, Special Program Examiner, at (571) 272-4856.

Petition DISMISSED.

Henry C. Yuen, Special Program Examiner
Technology Center 3700

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BACHMAN & LAPOINTE, P.C.
900 CHAPEL STREET
SUITE 1201
NEW HAVEN, CT 06510

Mail Date: 08/04/2010

Applicant	: Hiroshi Matsushima	: DECISION ON REQUEST FOR
Patent Number	: 7641817	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/045,974	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **439** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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HOUSTON TX 77002

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OFFICE OF PETITIONS

In re Application of	:	
Clifton E. WOLF	:	
Application No. 11/045,983	:	DECISION ON PETITION
Filed: 1/31/2005	:	
Attorney Docket No. 2069-1	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed 12/28/2007, 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 10/16/2007, as required by the Notice of Allowance and Fee(s) Due, mailed 7/16/2007. Accordingly, the date of abandonment of this application is 10/17/2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

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.

Cliff Bottl

for David A. Bucci
Petitions Examiner
Office of Petitions

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MICHAEL BLAINE BROOKS, P.C.
P.O. Box 1630
Simi Valley, CA 93062-1630

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SEP 19 2006
OFFICE OF PETITIONS

In re Application of	:	
MALVESTUTO, et al.	:	
Application No. 11/046,034	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. MALVES0401	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 29, 2006.

The request is **APPROVED**.

A review of the file record indicates that the attorneys of the firm MICHAEL BLAINE BROOKS, P.C.: (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, MICHAEL BLAINE BROOKS, P.C. 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 to change the correspondence address of record has been accepted. All future communications from the Office will be directed to the first copied address below until otherwise properly notified by the applicant.

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

A Review of the file discloses that a non-final Office action was mailed on May 02, 2006, which set forth a three month shortened statutory period for reply. Extensions of time under 37 CFR 1.136(a) were available. To date, there is no indication that a reply to the Office action of May 02, 2006 has been received.

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

David Buczo
Petitions Examiner
Office of Petitions

cc: Frank Malvestuto
1357 Nashville Street
San Diego, CA 92110

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FRANK S. MALVESTUTO
1357 Nashville Street
San Diego, CA 92110

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OFFICE OF PETITIONS

In re Application of	:	
MALVESTUTO, et al.	:	
Application No. 11/046,034	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. MALVES0401	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed January 27, 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 a driver's license for Mr. Malvestuto indicating that he is at least 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

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

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

The application is being forwarded to the Technology Center Art Unit 3644 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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S. Matthew Cairns
Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

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In re Application of	:	
Pellens et al.	:	
Application No. 11/046,045	:	
Filed: January 28, 2005	:	ON PETITION
Attorney Docket No. 52143	:	

This is a decision in response to the Petition to Correct Correspondence Filing Date for "Date-In" Incorrectly Entered or Omitted on Express Mail Label (37 CFR Section 1.10(d)), filed April 11, 2006, requesting the application be accorded a filing date of January 28, 2005, instead of the presently accorded filing date of January 27, 2005.

Petitioner alleges that the application was deposited in Express Mail service on January 28, 2005. Petitioner has filed the appropriate documentary and corroborating evidence demonstrating that January 28, 2005, was the date the correspondence was deposited Express Mail Post Office to Addressee.

In view of the above, the petition is **granted**. No fee is necessary.

The address on the petition is different from the address of record. If Petitioner desires to receive further correspondence with respect to this application, a change of correspondence address must be filed. A courtesy copy of this Decision is being forwarded to Petitioner at the address appearing on the petition; however, all future correspondence will be sent to address of record until instructions to the contrary are received.

This application file will be forwarded to the Office of Initial Patent Examination for correction of the filing date to January 28, 2005.

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

Derek L. Woods
Attorney
Office of Petitions

Cc: Rohm & Haas Electronic Materials, LLC
455 FOREST STREET
MARLBOROUGH, MA 01752

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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
11/046,045	01/28/2005	2813	1000	52143	6	11	3

CONFIRMATION NO. 5476

CORRECTED FILING RECEIPT

OC000000019235245

S. Matthew Cairns
Edwards & Angell, LLP
P.O. Box 55874
Boston, MA 02205

Date Mailed: 06/13/2006

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)

Rudy Pellens, Overpelt, BELGIUM;
Frank Linskens, Venray, NETHERLANDS;

Assignment For Published Patent Application

Rohm and Haas Electronic Materials LLC, Marlborough, MA
ASML Netherlands B.V., Veldhoven, NETHERLANDS

Power of Attorney: The patent practitioners associated with Customer Number **21874**.

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/539,932 01/29/2004

Foreign Applications

If Required, Foreign Filing License Granted: 06/07/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/046,045

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

T-gate formation

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.

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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GERALD CHAN
14021 SEAGATE DRIVE
SAN LEANDRO CA 94577

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SEP 15 2008

In re Application of	:	
AU, Anita et al.	:	
Application No. 11/046,047	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. G001	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 17, 2008, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 13, 2007, which set a shortened statutory period for reply of three (3) months. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is October 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 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. Accordingly, the reply to the final Office action of July 13, 2007 is accepted as having been unintentionally delayed.

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

This application is being referred to Technology Center AU 2612 for processing of the RCE and amendment submitted in accordance with 37 CFR 1.114.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

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HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS CO 80527-2400

RECEIVED

DEC 22 2008

OFFICE OF PETITIONS

In re Application of	:	
Steve A. Jacob, et al.	:	
Application No. 11/046,056	:	DECISION ON PETITION
Filed: January 28, 2005	:	UNDER 37 CFR 1.313(c)(1)
Attorney Docket No. 200405446-1	:	

This is a decision on the petition under 37 CFR 1.313(c), filed December 15, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. Jack H. McKinney 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. McKinney desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

The petition is **DISMISSED**.

The rules and statutory provisions governing the operations of the U.S. Patent and Trademark Office require payment of a fee on filing each petition to withdraw from issue. In this instance, the fee required by law is $130.

The petition in the above identified application was not accompanied by payment of the required fee. No consideration on the merits can be given that petition until the required fee is received.

Further the petition is also **DISMISSED** because;

37 CFR 1.313(c) provides that:

Once the issue fee has been paid, the application will not be withdrawn from issue upon petition by the applicant for any reason except:

(1) Unpatentability of one of more claims, which petition must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;

(2) Consideration of a request for continued examination in compliance with 37 CFR 1.114; or

(3) Express abandonment of the application. Such express abandonment may be in favor of a continuing application.

Upon payment of the issue fee, an application will not be withdrawn from issue upon petition except for the reasons enumerated in 37 CFR 1.313(c). The circumstances of the above-identified application do not fall within any of those exceptions.

For the reason stated above, the petition under 37 CFR 1.313(c) cannot be granted.

Petitioner is reminded that the filing of any renewed petition to withdraw from issue may not be recognized or effective if not received by the appropriate deciding official in time to act prior to issuance. *Note* 37 CFR 1.313(d). It is recommended that the facsimile number listed below be used to file the renewed petition.

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

By 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**
Office of Petitions

Any questions concerning this matter may be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

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P O BOX 272400, 3404 E. HARMONY ROAD
11808 MIRACLE HILLS DR.
MAIL STOP: W11-LEGAL
OMAHA, NE 68154

MAIL

MAR 09 2009

DIRECTOR'S OFFICE
TECHNOLOGY CENTER 2600

In re Application of	:	
Steve A. Jacob *et al.*	:	NOTICE OF WITHDRAWAL
Application No. 11/046,056	:	FROM ISSUE
Filed: January 28, 2005	:	UNDER 37 C.F.R. § 1.313(b)
Attorney Docket No. 200405446-1	:	

The above-identified application is withdrawn from issue after payment of the issue fee due to unpatentability of one or more claims. See 37 C.F.R. § 1.313(b)(3).

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 inquires should be directed to Michael Horabik at 571-272-7602.

The above-identified application is being forwarded to the examiner for prompt appropriate action, including notifying applicant of the new status of this application.

Ulka Chauhan
Acting Director, Technology Center 2600
Communications

CC: Office of Publications

Patent Clerk, South Tower, RM 8C15
Supervisory Correspondence Clerk, South Tower, RM 8C15

Application No.: NOT YET ASSIGNED
Petition to Make Special
Attorney Docket: WETCO-002A

IPW 20

OIPE JC11 APR 07 2005 PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants:	DAN DUKE, ET AL.	)	Confirmation No. 5451
Serial No.:	11/046,064	)	Art Unit: 1714
Filed:	JANUARY 28, 2005	)	Examiner:
For:	WATER SOFTENING METHOD AND SYSTEM	)	

PETITION TO MAKE SPECIAL

MAIL STOP PETITION
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Pursuant to 37 C.F.R. 1.102 and MPEP § 708.02, Applicants hereby petition to accord the present application special status insofar as the same is directed to an invention which materially enhances the quality of the environment of mankind. Specifically, the present invention is directed to systems and methods of softening water that substantially limits the volume of undesirable waste that is sent to municipal or other waste treatment systems. The present invention is also operative to provide efficient separation of salt-bearing waste from hardness ions (i.e., magnesium and calcium) waste that minimizes the use of sodium chloride by reusing salt-bearing waste, produced as a byproduct of an evaporation/cooling application, for use in softener regeneration.

In support of this petition to make special is the declaration of Dan A. Duke, which explains how the invention of the present application contributes to conserving a primary source of water wastage associated with water softener regeneration systems, as well as how the methods and systems of the present invention conserve the use of sodium utilized as part of the water softening systems and methods of the present invention, which thus substantially reduces the need to generate and ultimately discharge large quantities of salt-bearing waste

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 APR 26 2005

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KSOPHT0101-Z2100
OVERLAND PARK, KS 66251-2100

Mail Date: 04/21/2010

Applicant	: Eric S. Wolter	: DECISION ON REQUEST FOR
Patent Number	: 7623888	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,082	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1179** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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OFFICE OF PETITIONS

Cantor Colburn, LLP
20 Church Street
22nd Floor
Hartford, CT 06103

In re Application of	:	
Weitao Jia, et. al.	:	
Application No. 11/046,093	:	NOTICE
Filed: January 28, 2005	:	
Attorney Docket No. JEN0118US2	:	

This is a Notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28, filed on December 30, 2009.

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

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. Therefore, status as a small entity has been removed and any future fee paid must be submitted at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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BROUSE MCDOWELL LPA
388 SOUTH MAIN STREET
SUITE 500
AKRON OH 44311

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MAY 12 2008

In re Application of	:	
BAILEY, George et al.	:	
Application No. 11/046,106	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. **20718.27883**	:	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, 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 Heather Barnes on behalf of all attorneys of record who are associated with customer No. 26781. All attorneys/agents associated with the Customer Number 26781 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

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

There is an outstanding Office action mailed March 03, 2008 that requires a reply from the applicant.

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

Tredelle D. Jackson
Petitions Examiner
Office of Petitions

cc: **GEORGE BAILEY**
335 E. 4TH STREET
BYRON, IL 61010

cc: **EMERSON, THOMSON & BENNETT**
777 WEST MARKET STREET
AKRON, OH 44303

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P.O. Box 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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OFFICE OF PETITIONS

In re Application of :
Kornilovich et al. :
Application No. 11/046,107 : DECISION ON PETITION
Filed: January 28, 2005 :
Attorney Docket No. 200401845-1 :

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MAR 21 2008
OFFICE OF PETITIONS

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 13, 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 February 5, 2008, as required by the Notice of Allowance and Fee(s) Due, mailed November 5, 2007. Accordingly, the date of abandonment of this application is February 6, 2008. A Notice of Abandonment was mailed on March 4, 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.

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

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

Charlema Grant
Petitions Attorney
Office of Petitions

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P.O. Box 1450
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THE LAW OFFICES OF STEVEN MCHUGH, LLC
46 WASHINGTON STREET
MIDDLETOWN, CT 06457

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OFFICE OF PETITIONS

In re Application of	:	
SEIER, Kenneth et al.	:	
Application No. 11/046,116	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. **SYM-0003**	:	FROM RECORD
	:	

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

The request is **APPROVED**.

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

The request was signed by Steven M. McHugh on behalf of all attorneys of record who are associated with customer No. 42638. 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 second named inventor Coleen Crawford at the address indicated below.

There are no outstanding office actions at this time.

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

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **MS. COLEEN CRAWFORD**
SYMBIOSIS TECHNOLOGIES, LLC
P.O. BOX 356
RAYNHAM, MA 02767

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Knobbe, Martson, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

Mail Date: 04/20/2010

Applicant	: George Tsai	: DECISION ON REQUEST FOR
Patent Number	: 7645300	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,154	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1229** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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, Martson, Olson & Bear LLP
2040 Main Street
14th Floor
Irvine, CA 92614

Mail Date: 05/17/2010

Applicant : George Tsai
Patent Number : 7645300
Issue Date : 01/12/2010
Application No : 11/046,154
Filed : 01/28/2005

: 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 **1258** 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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INTELLECTUAL PROPERTY DEPARTMENT
370 SEVENTEENTH STREET
SUITE 4700
DENVER, CO 80202-5647

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OFFICE OF PETITIONS

In re Application of	:	
George Matheson	:	
Application No.: 11/046,157	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No.: 186254/US/2	:	

This is a decision on the petition, filed June 20, 2007, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

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

Petitioner is advised that the issue fee paid on May 30, 2007, in the above-identified application, cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2875 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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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 06/18/2010

Applicant	: Clarence Filsfils	: DECISION ON REQUEST FOR
Patent Number	: 7633859	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/046,163	: 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 **1052** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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Hana Verny
Peters, Verny, Jones & Schmitt, LLP
425 Sherman Avenue, Suite 230
Palo Alto CA 94306

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OFFICE OF PETITIONS

In re Application of
Hofmann et al.
Application No. 11/046,164
Filed: January 28, 2005
Attorney Docket No. 3818.04-5

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.10(d), filed March 4, 2005, requesting that the above-identified application be accorded a filing date of January 27, 2005, rather than the presently accorded filing date of January 28, 2005.

Petitioners requested the earlier filing date of January 27, 2005, on the basis that the application was purportedly deposited in Express Mail service on January 27, 2005. A copy of Express Mail Label No. EV484314452US, with a date-in of January 28, 2005, accompanies the petition.

Paragraph (a) of 37 CFR 1.10 states that:

> Any correspondence received by the U.S. Patent and Trademark Office (USPTO) that was delivered by the "Express Mail Post Office to Addressee" service of the United States Postal Service (USPS) will be considered filed with the USPTO on the date of deposit with the USPS. The date of deposit with the USPS is shown by the "date-in" on the "Express Mail" mailing label or other official USPS notation. If the USPS deposit date cannot be determined, the correspondence will be accorded the USPTO receipt date as the filing date. See § 1.6(a).

Paragraph (d) of 37 CFR 1.10 states that:

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

A grantable petition under 37 CFR 1.10(d) must include "a showing which establishes, to the satisfaction of the Commissioner, that the requested filing date was the date the correspondence was deposited in 'Express Mail Post Office to Addressee' service prior to the last scheduled pickup for that day." In addition, the showing "must be corroborated by evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the 'Express Mail Post Office to Addressee' service of the USPS." Evidence from the USPS may be, for example, the Express Mail Corporate Account Mailing Statement or a statement by an appropriate official of the USPS that according to a USPS record the "date-in" on petitioner's Express Mail receipt is erroneous, accompanied by a copy of the relevant USPS record. Evidence that came into being within one day after the deposit of the correspondence as Express Mail may be, for example, a log book which contains information such as the Express Mail label number; the application number, attorney docket number or other such file identification number; the place, date and time of deposit; the time of the last scheduled pick-up for that date and place of deposit;

the depositor's initials or signature; and the date and time of the log book entry.

In order to establish a showing under 37 CFR 1.10(d)(3), petitioners stated they submitted an Express Mail Log that that came into being within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee" service of the USPS with the petition. The Office thoroughly reviewed the documents and statements submitted with the present petition. However, petitioners did not provide any evidence from the USPS or that came into being after deposit and within one business day of the deposit of the correspondence in the "Express Mail Post Office to Addressee," showing that the Express Mail package was accepted by the USPS on January 27, 2005. Specifically, an Express Mail Log was not among the papers submitted with the petition.

Petitioners' attention is directed to 37 CFR 1.10(b), which states, in part:

> Correspondence should be deposited directly with an employee of the USPS to ensure that the person depositing the correspondence receives a legible copy of the "Express Mail" mailing label with the "date-in" clearly marked. Persons dealing indirectly with the employees of the USPS (such as by deposit in an "Express Mail" drop box) do so at the risk of not receiving a copy of the "Express Mail" mailing label with the desired "date-in" clearly marked.

Therefore, petitioners have failed to submit sufficient corroborating evidence as required by the rule. Accordingly, the petition is **dismissed**. Any request for reconsideration must be filed within TWO (2) MONTHS of the date of this decision.

The $130.00 petition fee is unnecessary and will be credited to Deposit Account No. 16-1331.

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

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

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

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

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

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

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JOHN R. BENEFIEL
280 DAINES ST., #100 B
BIRMINGHAM, MI 48009

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DEC 2 1 2005

OFFICE OF PETITIONS

In re Application of
David J. Bauer et al
Application No. 11/046,167
Filed: January 28, 2005
Attorney Docket No. TIP-113-8

: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78, filed September 19, 2005, which is being treated under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 08/151,175, filed April 22, 1993, as set forth in the concurrently filed amendment.

The petition is **GRANTED**.

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

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

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR

1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

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

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

Any inquiries concerning this decision may be directed to Wan Laymon (571) 272-3220. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3616 for appropriate action on the amendments filed September 19, 2005 and November 1, 2005, including consideration by the examiner of applicants' entitlement to claim benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application.

Frances Hicks

Frances Hicks
Lead Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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OFFICE OF PETITIONS

In re Application of	:
Cullor, Smith, Rensen, Sawyer,	: DECISION REFUSING STATUS
Osburn, and Wong	: UNDER 37 CFR 1.47(a)
Application No. 11/046,190	:
Filed: 28 January, 2005	:
Atty Docket No. 023070-143610US	:

This is in response to the petition under 37 CFR 1.47(a) filed on 28 July, 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 28 January, 2005, without an executed oath or declaration. Accordingly, on 7 March, 2005, Initial Patent Examination Division mailed a Notice to File Missing Parts of Nonprovisional Application, requiring an executed oath or declaration, the statutory basic filing fee, and a surcharge for its late filing. A copy of the sequence listing in computer readable form and a statement that the sequence listing in computer readable format is identical to the written sequence listing was also required. A two (2) month period for reply was set.

In response, on 28 July, 2005, a petition under 37 CFR 1.47(a), the statutory basic filing fee, surcharge, and a three (3) month extension of time and fee were filed. A declaration naming James Cullor, Wayne Smith, Gabriel Rensen, Mary Sawyer, Bennie Osburn, and Alice Wong, signed by all inventors except Cullor on behalf

of themselves and non-signing joint inventor Cullor, was also filed.

Petitioners assert that joint inventor Cullor has failed to sign the declaration. Petitioners state that a copy of a letter showing that the application papers were sent via certified mail to the non-signing inventor's work address on 28 January, 2005, is enclosed with the petition. Petitioners state that the certified mail receipt was returned, but that the executed declaration was not returned.

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 joint inventor Cullor was sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1] Specifically, the letter showing that the application papers (specification, including claims, and the drawings, if any, and the declaration) were sent to the non-signing inventor on 28 January, 2005, referenced in the present petition, could not be located among the papers received with the petition. Rather, petitioners included a letter to joint inventor Wayne L. Smith dated 13 April, 2005 as well as a letter, apparently transmitting only the declaration and an assignment, sent to joint inventor Cullor on 27 April, 2005. There is insufficient evidence, however, that the application papers were included with the 27 April, 2005, letter.

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing

[1] MPEP 409.03(d).

a copy of the cover letter transmitting the application papers (specification, including claims, drawings, if any, and the declaration) to the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal 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.

Additionally, petitioners should clarify the last known address for the non-signing inventor. That address should be the last known address at which the inventor customarily receives mail. See MPEP 605.03. Ordinarily the last known address will be the last known residence of the non-signing inventor. MPEP 409.03(e).

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

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EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:
Cullor, Smith, Rensen, Sawyer,	:
Osburn, and Wong	: DECISION ACCORDING STATUS
Application No. 11/046,190	: UNDER 37 CFR 1.47(a)
Filed: 28 January, 2005	:
Atty Docket No. 02307O-143610US	:

This is in response to the renewed petition under 37 CFR 1.47(a) filed on 31 August, 2005.

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, James Cullor, has refused to join in the filing of the above-identified application after having been presented with a copy of the application papers. Specifically, the petitioners have shown that a copy of the above-identified application was presented in person to the non-signing inventor at his residence. The non-signing inventor, however, has failed to return an executed declaration naming him as a joint inventor along with Wayne Smith, Gabriel Rensen, Mary Sawyer, Bennie Osburn, and Alice Wong.

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

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

The application will be referred to Technology Center Art Unit 1653 for examination in due course.

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

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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James Cullor
1215 Harley Drive
Woodland CA 95695

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OFFICE OF PETITIONS

In re Application of
Cullor et al.
Application No. 11/046,190
Filed: 28 January, 2005
For: DECTOR OF RUMINANT DNA VIA PCR

Dear Mr. Cullor:

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

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

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

TOWNSEND AND TOWNSEND AND CREW LLP
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SAN FRANCISCO CA 94111-3834

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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 04/21/2010

Applicant	: Mark A. Handschy	: DECISION ON REQUEST FOR
Patent Number	: 7656768	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,197	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **1310** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 04/21/2010

Applicant	: Dan W. Verser	: DECISION ON REQUEST FOR
Patent Number	: 7601865	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,206	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

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

The patent term adjustment has been determined to be **552** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

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

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

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

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

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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

Mail Date: 05/18/2010

Applicant : Dan W. Verser
Patent Number : 7601865
Issue Date : 10/13/2009
Application No : 11/046,206
Filed : 01/28/2005

: 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 **619** 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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OCT 19 2005

OFFICE OF PETITIONS

DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of
Cobcroft, et al.
Application No. 11/046,223
Filed: January 28, 2005
Dkt. No.: 00885/0202462-US0
For: BI-DIRECTIONAL PROGRAMMING SYSTEM/METHOD FOR PROGRAM DEVELOPMENT

DECISION REFUSING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the petition under 37 CFR 1.47(a), filed September 1, 2005.

The petition is **DISMISSED**.

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

The above-identified application was filed January 28, 2005 without an executed oath or declaration. Accordingly, a Notice to File Missing Parts of Nonprovisional Application was mailed March 14, 2005 requiring, *inter alia*, 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 joint inventor Dhiraj Bhandari cannot be reached to execute the application papers.

Petitioners have failed to establish that the non-signing inventor cannot be reached or located. Petitioners indicate that attempts have been made to reach the non-signing inventor via telephone and email to no avail.

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).

An additional one month extension of time has been charged to petitioners' deposit account as authorized.

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

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300

By hand: U.S. Patent and Trademark Office

Customer Service Window
Mail Stop Petition
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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DARBY & DARBY P.C.
P. O. BOX 5257
NEW YORK, NY 10150-5257

In re Application of
Cobcroft, et al.
Application No. 11/046,223
Filed: January 28, 2005
Dkt. No.: 00885/0202462-US0
For: BI-DIRECTIONAL PROGRAMMING SYSTEM/METHOD FOR PROGRAM DEVELOPMENT

DECISION GRANTING STATUS UNDER 37 CFR 1.47(a)

This decision is in response to the renewed petition under 37 CFR 1.47(a), filed December 19, 2005.

The petition is **GRANTED**.

Petitioners have shown that inventor Dhiraj Bhandari cannot be reached or located for presentation and execution of the application papers.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventors at the addresses given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

After this decision is mailed, the above-identified application will be returned to the Office of Initial Patent Examination for further processing.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3205.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
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NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

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OFFICE OF PETITIONS

In re Application of
BESSETTE et al.
Application No. 11/046,241
Filed: 01/31/2005
Attorney Docket No. WFG-4380-161

DECISION ON PETITION

This is a decision on the "PETITION TO WITHDRAW TERMINAL DISCLAIMER," September 5, 2007.

Applicant requests that the Office withdraw the terminal disclaimer filed July 5, 2007. Applicant asserts that the terminal disclaimer is inappropriate because the Examiner withdrew the double patenting rejection of the final Office action.

As the examiner has concurred, the requested relief can be favorably considered. The petition is **granted**.

The $400.00 petition fee will be charged to the Deposit Account.

This matter is being referred to Technology Center Art Unit 1615 for correction of PALM and file records consistent with this decision.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

OIPE JC21
JUL 01 2005
PATENT & TRADEMARK OFFICE

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.:	11/046,255
Filing Date:	January 28, 2005
Applicant:	Zhao et al.
Group Art Unit:	1638
Examiner:	not yet assigned
Title:	Maize bZIP Transcription Factors and Genes Encoding the Same and Use Thereof
Attorney Docket:	6131-000001

Director of The United States Patent and Trademark Office
P.O. Box 1450
Alexandria, Virginia 22313-1450

PETITION FOR SUBMITTING COLOR DRAWINGS UNDER 37 C.F.R. §1.84(2)

Sir:

Ok
Entr
MB
5/21/06

Applicant hereby petitions under the provisions of 37 §C.F.R. 1.84(2) for the submission of color drawings. The color drawings are necessary to show the results of the growth of yeast *in vivo* and to better illustrate the gel electrophoresis patterns. In addition, the color drawings better illustrate test results of *Arabidopsis* under different environmental stress conditions. Submitted with this petition is a fee as set forth in 37 C.F.R. §1.17(h), three sets of color drawings and a black and white photocopy that accurately depicts to the extent possible the subject matter shown in the color drawings. No new subject matter has been added.

07/06/2005 MBLANCO 00000001 11046255
02 FC:1464 130.00 OP

Applicants' representative amends the specification to insert the following language before paragraph [0021] of the Brief Description of the Drawings:

The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the office upon request and payment of the necessary fee.

Respectfully submitted,

Dated: 07/01/05

David L. Suter
Reg. No. 30,692
Michael J. Lang, Ph.D.
Reg. 51,120

Harness, Dickey & Pierce, P.L.C.
P.O. Box 828
Bloomfield Hills, Michigan 48303
248-641-1600
DLS/MJL/csd

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OFFICE OF PETITIONS

PFIZER INC
10555 SCIENCE CENTER DRIVE
SAN DIEGO CA 92121

In re Application of :
Green, et. al : DECISION ON PETITION
Application No. 11/046,266 :
Filed: January 28, 2005 :
Docket No.: PC9400D :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed September 29, 2006.

The petition is hereby **GRANTED**.

This application became abandoned for failure to timely submit a proper reply to the Office action mailed December 5, 2005. The Office action set a one month shortened statutory period of time for reply. Notice of Abandonment was mailed July 3, 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 CFR 1.137(b). Accordingly, the failure to timely submit a proper reply to the Office action is accepted as having been unintentionally delayed.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application 11/540,375, filed September 29, 2006.

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 DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Richard L. Bridge
ARMSTRONG TEASDALE LLP
One Metropolitan Square
Suite 2600
St. Louis, MO 63102-2740

Mail Date: 04/20/2010

Applicant	: Bernard J. Kemper	: DECISION ON REQUEST FOR
Patent Number	: 7575126	: RECALCULATION of PATENT
Issue Date	: 08/18/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,288	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1163** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KRAGULJAC & KALNAY
4700 ROCKSIDE ROAD
SUMMIT ONE, SUITE 510
INDEPENDENCE, OH 44131

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OFFICE OF PETITIONS

In re Application of Kraemer et al. :
Application No. 11/046,302 : Decision on Petition
Filing Date: January 28, 2005 :
Attorney Docket No. 471746 :

This is a decision on the petition under 37 CFR 1.137(b), filed April 22, 2009, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 8, 2008, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on October 9, 2008. A Notice of Abandonment was issued March 18, 2009.

The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed,
(2) The petition fee,
(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
(4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

Petitioner has submitted a reply to the non-final Office action in the form of an amendment. Petitioner has submitted the required petition fee of $1,620. Petitioner has stated the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.

The petition is signed by Attorney John Kalnay who was not an attorney or agent of record at the time the application became abandoned. Therefore, it appears Attorney Kalnay may not have been in a position to have firsthand or direct knowledge of the facts and circumstances of the delay. Nevertheless, the statement by Attorney Kalnay that the entire delay was unintentional is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay.[1] In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that a portion of the delay from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was intentional, petitioner must notify the Office.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 2439 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

[1] See Changes to Patent Practice and Procedure, 62 *Fed. Reg.* at 53160 and 53178; 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109) (applicant obligated under 37 CFR 10.18 to inquire into the underlying facts and circumstances when providing the statement required by 37 CFR 1.137(b) to the Patent and Trademark Office).

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OCT 13 2005

TECHNOLOGY CENTER 3600

Jay R. Hamilton
331 W. 3rd St.
New Ventures Center, Suite 100
Davenport, IA 52801

In re Application of:	:	
Raymond D. Laughlin	:	**DECISION ON PETITION**
Serial No. 11/046,308	:	**TO MAKE SPECIAL**
Filed: January 28, 2005	:	**(APPLICANT'S HEALTH)**

For: HINGE MOUNTED LIGHT ASSEMBLY

This is a decision on the petition filed September 08, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health. There is no fee for this petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run its normal course.

The petition includes a doctor's certificate or other medical certificate showing that the Applicant is legally blind but does not show that the Applicant's state of health is such that he might not be available to assist in the prosecution of the application if it were to run its normal course.

For the above stated reasons, the petition is **DISMISSED**.

Any request for reconsideration must be filed within TWO MONTHS of the date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. Applicants should promptly submit a renewed petition to the Commissioner of Patents and Trademarks, Washington, D.C. 20231. The envelope should indicate that the correspondence be brought to the attention of Technology Center 3600.

Until the renewed petition is submitted, the application will be returned to the examiner's docket to await treatment on the merits in the normal order of examination.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

KJD/rjc: 5/17/05

UNITED STATES PATENT AND TRADEMARK OFFICE

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TRELLIS INTELLECTUAL PROPERTY LAW GROUP. PC
1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
PASCH, et al. :
Application No. 11/046,325 :
Filed: January 27, 2005 :
Attorney Docket No. 100115-000300US :

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 24, 2006.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "termination of services", does not meet any of the conditions set forth in 37 CFR 10.40.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant. Telephone inquiries concerning this decision should be directed to the undersigned at 571-272- 7253.

Monica A. Graves
Petitions Examiner
Office of Petitions

cc: **MITCHELL AND CULP PLLC**
ATTN: RICHARD M. MITCHELL, ESQ
1001 MOREHEAD SQUARE DRIVE, SUITE 330
CHARLOTTE, NC 28203-4268

UNITED STATES PATENT AND TRADEMARK OFFICE

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1900 EMBARCADERO ROAD, SUITE 109
PALO ALTO CA 94303

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OFFICE OF PETITIONS

In re Application of :
PASCH, et al. :
Application No. 11/046,325 :
Filed: January 27, 2005 :
Attorney Docket No. **100115-000300US** :

DECISION ON PETITION
TO WITHDRAW
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 March 29, 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 Charles Kulas 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 or the assignee of the entire interest at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed July 25, 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: **NICHOLAS F. PASCH**
1470 DE SOLO DRIVE
PACIFICA, CA 94044-4004

cc: **MITCHELL & CULP PLLC**
ATTN: RICHARD M. MTICHELL, ESQ.
1001 MOREHEAD SQUARE DRIVE, SUITE 330
CHARLOTTE, NC 28203-4268

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JUL 21 2005

OFFICE OF PETITIONS

In re Application of	:	
Marcio Dos Santos Galli	:	
Application No. 11/046,327	:	DECISION REFUSING STATUS
Filed: January 27, 2005	:	UNDER 37 CFR 1.47(b)
Attorney Docket No. AOL0139CIP	:	

This is in response to the "PETITION BASED UPON UNAVAILABILITY OF INVENTOR (37 CFR 1.47/MPEP 409.03)", filed June 3, 2005, which is being treated as a petition under 37 CFR 1.47(b).

The petition under 37 CFR 1.47(b) is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "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 27, 2005, without an executed oath or declaration, the statutory basic filing fee, or a proper Sequence Listing. Accordingly, on May 3, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its filing, and replacement drawings. This Notice set a two-month period for reply.

In reply, applicant filed the instant petition, and paid both the petition fee and the surcharge for late filing of the declaration, as well as filed replacement drawings.

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 37 CFR 1.63; (3) the petition fee; (4) a statement of the last known address of 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; and (6) proof of irreparable damage. The instant petition does not satisfy requirement (5).

As to requirement (5), applicant has not shown a sufficient proprietary interest. Applicant has not submitted a copy of the assignment nor a statement under 37 CFR 3.73(b) by the assignee.[1] If applicant can not show a sufficient proprietary interest by supplying a copy of an executed assignment (or a copy of an executed agreement to assign, e.g. an employment agreement), a proprietary interest "may be demonstrated by an appropriate legal memorandum to the effect that a court of competent jurisdiction (federal, state, or foreign) would by the weight of authority in that jurisdiction award title of the invention to the 37 CFR 1.47(b) applicant."[2]

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

By FAX: (571)273-8300
Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

---

[1] See MPEP 409.03(f).

[2] Id.

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United States Patent and Trademark Office
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OFFICE OF PETITIONS

In re Application of	:	
Marcio Dos Santos Galli	:	
Application No. 11/046,327	:	DECISION NOTING JOINDER
Filed: January 27, 2005	:	OF INVENTOR AND PETITION
Attorney Docket No. AOL0139CIP	:	UNDER 37 CFR 1.47(b) MOOT

This is in response to the "REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 CFR 1.47(b)", filed September 21, 2005.

The above-identified application was filed on January 27, 2005, without an executed oath or declaration, the statutory basic filing fee, or a proper Sequence Listing. Accordingly, on May 3, 2005, the Office mailed a "Notice to File Missing Parts of Nonprovisional Application - Filing Date Granted," requiring an executed oath or declaration, a surcharge for its filing, and replacement drawings. This Notice set a two-month period for reply.

In reply, applicant filed a petition under 37 CFR 1.47(a) on June 3, 2005, and paid both the petition fee and the surcharge for late filing of the declaration, as well as filed replacement drawings. However, the petition was dismissed in a decision mailed on July 21, 2005.

In view of the **joinder** of the inventor, consideration under 37 CFR 1.47(b) is not necessary and the petition is considered to be **moot**. This application does <u>not</u> have any Rule 1.47(b) status and no such status should appear on the file wrapper. This application need not be returned to this Office for further consideration under 37 CFR 1.47(b).

The application is being forwarded to Group Art Unit 2151 for docketing and examination in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571)272-3207.

Cliff Congo
Petitions Attorney
Office of Petitions

PTO/SB/66 (03-09)
Approved for use through 03/31/2012. OMB 0651-0016
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
6981708	2006-01-03	11046331	2005-01-28	201000648

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY
☐ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS
☒ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity		Small Entity	
Fee	Code	Fee	Code
◉ 3 ½ year	(1551)	○ 3 ½ year	(2551)
○ 7 ½ year	(1552)	○ 7 ½ year	(2552)
○ 11 ½ year	(1553)	○ 11 ½ year	(2553)

SURCHARGE
The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))
The appropriate maintenance fee must be submitted with this petition.

STATEMENT
THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

◉ An attorney or agent registered to practice before the Patent and Trademark Office

○ A sole patentee

○ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.

○ A joint patentee; all of whom are signing this e-petition

○ The assignee of record of the entire interest

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/JOANN M. SEATON/	Date (YYYY-MM-DD)	2010-03-04
Name	JoAnn M. Seaton	Registration Number	55605

This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/ or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.**

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.

2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.

3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.

4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).

5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.

6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).

7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.

8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.

9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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In re Patent No. 6981708
Issue Date: January 3,2006
Application No. 11046331
Filed: January 28,2005
Attorney Docket No. US&W C-86

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

This is a decision on the electronic petition, filed March 4,2010 ,under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of March 4,2010 .
This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

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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	:	
Kohichi Suzuki et al	:	
Application No. 11/046,348	:	ON PETITION
Filed: January 27, 2005	:	
Attorney Docket No. 16869Q-137800US	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 18, 2009, to revive the above-identified application.

The petition is **GRANTED.**

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of August 11, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is November 12, 2008.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the $1110 extension of time submitted with the petition on March 18, 2009 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credit 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 a Request for Continued Examination (RCE) and fee of $810 and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2627 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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HITACHI GLOBAL STORAGE TECHNOLOGIES, INC.
5600 COTTLE ROAD, NHGB/0142
IP DEPARTMENT
SAN JOSE, CA 95193

Mail Date: 04/26/2010

Applicant	: Kohichi Suzuki	: DECISION ON REQUEST FOR
Patent Number	: 7583474	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/046,348	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **239** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	:	
OISHI et al.	:	
Application No. 11/046,349	:	DECISION ON APPLICATION
Filed: January 28, 2005	:	FOR
Attorney Docket No. 12748/3	:	PATENT TERM ADJUSTMENT

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed October 23, 2008, which is properly treated under the provisions of 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from 405 days to a total of 709 days. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.703(b).

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 three 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 37 CFR 1.705(d)

must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, 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.

With respect to applicants' other basis for filing this paper, the application for patent term adjustment is **DISMISSED**.

On July 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 405 days. On October 23, 2008, applicants timely submitted the instant application for patent term adjustment[1]. Applicants state that the instant application is not subject to a terminal disclaimer.

Applicants dispute the reduction of 126 days pursuant to 37 CFR 1.704(c)(7) for the submission of a non-compliant amendment on December 7, 2007. Specifically, applicants assert:

> The PTO calculation of the period of reduction of adjustment pursuant to 37 C.F.R. §1.704, as shown by the PAIR PTA adjustment history, erroneously indicates the period of reduction to be 126 days. Applicants' Attorney believes the correct period of reduction of adjustment pursuant to 37 C.F.R. §1.704 to be 0 days. In particular, the PTO delayed issuing a Notice of Non-Compliant Amendment in response to the Amendment filed on December 7, 2007 until April 1, 2008. The PTO's delay resulted in the 126 days of delay now erroneously attributed to Applicants. Upon receipt of the Notice of

[1] The Office records show that the issue fee was also received on October 23, 2008.

> Non-Compliant Amendment April 1, 2008, Applicants prepared and filed a compliant Amendment on the same day (April 1, 2008).

Request, 10/23/08, p. 3.

Applicants' arguments have been considered, but are unpersuasive. On December 7, 2007, applicants filed an amendment within three months from the mailing of the nonfinal Office action on September 10, 2007. See 37 CFR 1.704(b). In response, the Office mailed a Notice of Non-Compliant Amendment (37 CFR § 1.121) on April 1, 2008. On April 11, 2008, applicants filed an amendment correcting the omission.

Pursuant to 37 CFR 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (7) Submission of a reply having an omission (§ 1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed[.]

It is undisputed that the amendment filed on December 7, 2007, contained an omission. The submission of a non-compliant amendment is a proper basis for reduction of patent term under 37 CFR 1.704(c)(7). Furthermore, the Office reminds applicants that the filing of a reply that is complete is within the control of the applicant. Accordingly, the period of reduction of 126 days for the submission of the non-compliant amendment is warranted and will not be removed.

In view thereof, the patent term adjustment at the time of the mailing of the notice of allowance remains 405 days.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of 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 Christina Tartera Donnell, Senior Petitions Attorney, at (571) 272-3211.

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration

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OFFICE OF PETITIONS

In re Patent No. 7,518,709	:	
OISHI et al.	:	DECISION ON
Issue Date: April 14, 2009	:	REQUEST FOR RECONSIDERATION
Application No. 11/046,349	:	OF
Filed: January 28, 2005	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 12748/3	:	

This is a decision on the "SUPPLEMENTAL REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT", filed May 28, 2009, requesting that the patent term adjustment determination for the above-identified patent be changed from four hundred fifty-five days (455) to at least eight hundred ninety-seven (897) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On April 14, 2009, the above-identified application matured into US Patent No. 7,518,709 with a revised patent term adjustment of 455 days. This request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent. See 37 CFR 1.705(d).

Patentees request recalculation of the patent term adjustment based on the decision in Wyeth v. Dudas, 580 F. Supp. 2d 138, 88 U.S.P.Q. 2d 1538 (D.D.C. 2008). Patentees assert that pursuant to Wyeth, where there is no overlap between the PTO delay under 35 U.S.C. 154(b)(1)(A) and the delay under 35 U.S.C. 154(b)(1)(B), the correct calculation for patent term adjustment is the sum of PTO delay plus Three Year delay. Patentees maintain that the period of adjustment due to the Three Year Delay by the Office, pursuant to 37 CFR 1.703(b), of 442 days and the period of adjustment due to examination delay, pursuant to 37 CFR 1.702(a), of 581 days do not overlap.

The 442-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on January 28, 2005, and the patent having been issued on April 14, 2009, three years and 442 days later. Patentees assert that in addition to this 442 day period, they are entitled to a period of adjustment due to 581 days. This 581 day period is the sum of:

- a period of delay of 531 days for the failure by the Office to mail at least one of a notification under 35 U.S.C. 132 not later than fourteen months after the date on which the application was filed under 35 U.S.C. 111(a), pursuant to § 1.702(a)(1); and,
- a period of delay of 50 days for the Office's failure to issue a patent not later than four months after the date on which the issue fee was paid under 35 U.S.C. 151 and all outstanding requirements were satisfied, pursuant to § 1.702(a)(4).

Under 37 CFR 1.703(f), patentees are entitled to a period of patent term adjustment equal to the period of delays based on the grounds set forth in 37 CFR 1.702 reduced by the period of time equal to the period of time during which patentees failed to engage in reasonable efforts to conclude prosecution pursuant to 37 CFR 1.704. In other words, patentees are entitled to the period of Office delay reduced by the period of applicant delay. Patentees do not dispute the period of reduction of zero (0) 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 (442 days) and the period of Examination Delay (581 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 Examination delay pursuant to 37 CFR 1.702(a)(1) and (4). Accordingly, patentees submit that the total period of adjustment for Office delay is 1,023 days, which is the sum of the period of Three Year Delay (442 days) and the period of Examination Delay (581 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 897 days (442 + 581 reduced by 0 overlap - 126 (applicant delay)).

The Office agrees that as of the issuance of the patent on April 14, 2009, the application was pending three years and 442 days after its filing date. The Office agrees that the actions detailed above were not taken within the specified time frame, and thus, the entry of a period of adjustment of 581 days is proper. At issue is whether patentees should accrue 442 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as, 581 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that all 442 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, May 18, 2005, to the date the patent issued on March 17, 2009. Prior to the issuance of the patent, 581 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

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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).

442 days for Office delay in failing to issue the patent within three years overlap with the 581 days of Office delay. During that time, the issuance of the patent was delayed by 581 days, not 581 + 442 days. The Office took 14 months and 531 days to issue a first Office action. Additionally, the Office took 4 months and 50 days to issue the patent after the date on which the issue fee was paid. Otherwise, the Office took all actions set forth in 37 CFR 1.702(a) within the prescribed time frames. Nonetheless, given the 581 days of Office delay and the 126 days of applicant delay and the time allowed within the time frames for processing and examination, the application issued three years and 442 days after its filing date. The Office did not delay 581 days and then an additional 442 days. Accordingly, 581 days of patent term adjustment (not 581 and 442 days) was properly entered because the period of delay of 442 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 581 days attributable to grounds specified in 37 CFR 1.702(a)(1) and (4). Entry of both periods is not warranted.

Accordingly, at issuance, the Office properly entered no additional days of patent term adjustment for the Office taking in excess of three years to issue the patent.

In view thereof, no adjustment to the patent term will be made. The revised determination of patent term adjustment at the time of the issuance of the patent will remain 455 days.

The Office acknowledges the previous submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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Paper No.

FLIESLER MEYER, LLP
FOUR EMBARCADERO CENTER
SUITE 400
SAN FRANCISCO CA 94111

COPY MAILED
OCT 13 2006
OFFICE OF PETITIONS

In re Application of :
Brian White and Skip Sauls : DECISION ON PETITION
Application No. 11/046,351 :
Filed: January 28, 2005 :
Atty Docket No. BEAS-01640US1 :

This is a decision on the REQUEST TO CORRECT INVENTORSHIP UNDER 37 C.F.R. § 1.48(a) and PETITION UNDER 37 C.F.R. § 1.47(a)[1] INVENTOR REFUSES TO SIGN both filed July 13, 2006. Applicants request waiver of the requirement under § 1.48(a)(3) for re-execution of the declaration by all of the actual inventors.

The petition is **GRANTED**.

The above-identified application was filed on January 28, 2005, identifying Brian White as sole inventor, but without an executed oath or declaration. In response to the Notice to File Missing Parts of Application mailed March 18, 2005, on May 18, 2005, applicant timely filed a declaration executed by sole inventor White. On July 13, 2006, the instant request under

[1] Petitions under 37 CFR 1.47 are only applicable to an original oath or declaration and are not applicable to the reexecution of another oath or declaration by A. In such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors, i.e., inventor A, execute the oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the reexecution of the oath or declaration will be evaluated as to whether the nonsigning inventor was actually given the opportunity to reexecute the oath or declaration, or whether the nonsigning inventor could not be reached.

§ 1.48(a) was filed to amend the inventorship to add joint inventor Skip Sauls. The petition includes a Written Consent of Assignee.

37 CFR 1.48(a) requires:

(1) A request to correct the inventorship that sets forth the desired inventorship change;

(2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;

(3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;

(4) The processing fee set forth in § 1.17(i); and

(5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee (see § 3.73(b) of this chapter).

Petitioner has satisfied requirements (1),(2), (4) and (5) above. The petition specifically requests the addition of inventor Sauls. The petition includes a statement from inventor Sauls that the inventorship error occurred without deceptive intent. Petitioner has paid the processing fee. The petition includes a statement signed by Robert Donohue with a statement that he is authorized to sign on behalf of the assignee company, consenting to the change in inventorship. Petitioner states the application is Office records indicate that assignments reflecting this ownership are recorded at reel/frames 016253/0116 and 017926/0494.

However, the petition does not satisfy requirement (3) above. The declaration submitted is executed by added inventor Sauls but not by inventor White. Petitioner requests waiver of the requirement that all of the inventors sign the declaration on the basis that nonsigning inventor White refuses to join in the application and/or cannot be found or reached after diligent effort to join in the application.

On very infrequent occasions, the requirements of 37 CFR 1.48(a) have been waived upon the filing of a request and fee under 37 CFR 1.183 (along with the request and fee under 37 CFR 1.48(a)) to permit the filing of a statement by less than all the parties required to submit a statement. In re Cooper, 230 USPQ 638, 639 (Dep. Assist. Comm'r Pat. 1986). However, such a waiver will not be considered unless the facts of record unequivocally support the correction sought. In re Hardee, 223 USPQ 1122, 1123 (Comm'r Pat. 1984). As 37 CFR 1.48(a) is intended as a simple procedural remedy and does not represent a substantive determination as to inventorship, issues relating to the inventors' or alleged inventors' actual contributions to conception and reduction to practice are not appropriate for consideration in determining whether the record unequivocally supports the correction sought.

As to requirement (3), in such circumstances, a petition under 37 CFR 1.183 should be considered requesting waiver of the requirement of 37 CFR 1.64 that each of the actual inventors execute the oath or declaration, particularly where assignee consent is given to the requested correction. Absent assignee consent, the petition under 37 CFR 1.183 requesting waiver of the re-execution of the oath or declaration will be evaluated as to whether the non-signing inventor was actually given the opportunity to re-execute the oath or declaration, or whether the non-signing inventor could not be reached. See MPEP 201.03. As discussed above, assignee consent is given to the requested correction. This consent is supplemented by evidence that the non-signing inventor White has refused to join in the application. Accordingly, the waiver is granted.

Receipt of payment of the processing fee of $130 under 1.17(i) is acknowledged. The petition fee of $400 under 37 CFR 1.183 has been charged to petitioner's Deposit Account, as authorized.

The application will be examined in due course.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3219.

Nancy Johnson

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY, THREE O-I PLAZA
PERRYSBURG OH 43551-2999

In re Application of	:	
FRIEDMAN, ALBERTO	:	
Application No. 11/046382	:	**DECISION ON PETITION**
Filed: January 28, 2005	:	
Attorney Docket No. **18000 USA**	:	

This is a decision on the Petition To Withdraw Holding Of Abandonment, received in the United States Patent & Trademark (USPTO) via facsimile transmission on November 19, 2007.

The petition is **DISMISSED**.

The above-identified application was held abandoned for applicant's failure to timely pay the issue fee, as required in the Notice of Allowance and Fee(s) Due mailed July 5, 2007. The Notice of Abandonment, mailed on October 29, 2007 indicates, "The submitted fee of $0 is insufficient. A balance of $1700 is due".

The Office acknowledges receipt of Part B – Fee(s) Transmittal via facsimile transmission on July 30, 2007 authorizing that the Issue Fee be charged to Deposit Account No. 50-1943. On July 31, 2007 when an attempt was made by the Office of Finance to charge the fees, there were insufficient funds in the Deposit Account to charge the required fee.

37 CFR 1.25 (a) and (b), which states in part:

> 1.25(a) ...An amount sufficient to cover all fee, services, copies, etc., requested must always be on deposit. Charges to accounts with insufficient funds will not be accepted."
>
> 1.25 (b) ...An authorization to charge a fee to a deposit account will not be considered payment of the fee on the date the authorization to charge the fee is effective as to the particular fee to be charged unless sufficient funds are present in the account to cover the fee.

In light of the non-compliance with 37 CFR 1.25, the holding of abandonment cannot be withdrawn.

Applicant may seek relief by filing a petition for Revival of Abandoned Application under CFR § 1.137 (a) or (b). (Forms are available at USPTO website http://www.uspto.gov)

- Under 37 CFR 1.137(a), a petition for the revival of an ***unavoidable*** abandoned application
- Under 37 CFR 1.137(b), a petition for the revival of an ***unintentionally*** abandoned application

Further inquires with respect to filing a petition under 37 CFR § 1.137 may be directed to the Office of Petitions at 571-272-3282 or addressed as follows:

By mail: Mail Stop Petitions
Commissioner for Patents
Office of Petitions
P O Box 1450
Alexandria, VA 22313-1450

Telephone inquires concerning this decision matter may be directed to the undersigned at 703-308-9250 Ext. 164.

Kendrick Sprull
Office of the Director
Office of Patent Publications

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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OWENS-ILLINOIS, INC.
ONE MICHAEL OWENS WAY, THREE O-I PLAZA
PERRYSBURG OH 43551-2999

COPY MAILED

APR 30 2008

OFFICE OF PETITIONS

In re Application of	:	
Alberto FRIEDMAN	:	
Application No. 11/046,382	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. **DZ-1227**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 26, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 05, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed July 05, 2007. Accordingly, the date of abandonment of this application is October 06, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1440 and the publication fee of $300, (2) the petition fee of $1540; and (3) a proper statement of unintentional delay. Accordingly, the Issue Fee and the Publication Fee are accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

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MAIL

OCT 03 2005

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

Devine, Millimet & Branch, P.A.
111 Amherst Street
Manchester NH 03101

In re Application of:
Michael A. Skubisz, et al.
Application No.: 11/046,396
Filed: January 28, 2005
For: **MAINTAINING LIFE LINE PACKET-SWITCHED TELEPHONY SERVICES**

DECISION ON PETITION
TO MAKE SPECIAL

This is a decision on the petition, filed September 23, 2005 under 37 C.F.R. §102(d) and M.P.E.P. §708.02(XI): Inventions For Countering Terrorism, to make the above-identified application special.

M.P.E.P. §708.02 (XI), which sets out the prerequisites for a grantable petition for Inventions For Countering Terrorism under 37 C.F.R. § 102(d), states in relevant part:

> International terrorism as defined in 18 U.S.C. 2331 includes "activities that - (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State; [and] (B) appear to be intended - (i) to intimidate or coerce a civilian population; (ii) to influence the policy of a government by intimidation or coercion; or (iii) to affect the conduct of a government by assassination or kidnapping..." The types of technology for countering terrorism could include, but are not limited to, systems for detecting/identifying explosives, aircraft sensors/security systems, and vehicular barricades/disabling systems.
>
> Applicants who desire that an application relating to inventions for countering terrorism be made special should file a petition. The petition for special status should be accompanied by a statement explaining how the invention contributes to countering terrorism.

Petitioner's submission fails to meet the criteria set out with respect to countering terrorism in M.P.E.P. §708.02(XI). The specification and claims as originally filed provide no indication of an intention to counter terrorism by maintaining a life line packet switched telephony services. In fact, the petition states "A customer premise device can be vulnerable to loss of power at the customer's premises". Evident from this statement is that the power loss, even if an act of terrorism, must have first occurred. As a result, no advancement in the technology of countering terrorism has been persuasively shown.

Accordingly the Petition is **DENIED**.

Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.

It is suggested that applicant review M.P.E.P. §708.02 regarding other grounds available for filing a petition to make special. In particular, note M.P.E.P. §708.02(VIII): Accelerated Examination, which does not place limitations on the subject matter of the application.

Dwayne Bost
Special Program Examiner
Technology Center 2600
Communications

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/046,415	01/29/2005	Hani Atamna	CHO-049	3794

23379 7590 03/18/2010
RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego, CA 92130

EXAMINER
KARPINSKI, LUKE E

ART UNIT	PAPER NUMBER
1616	

NOTIFICATION DATE	DELIVERY MODE
03/18/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

RICHARD@SCI-TECH.COM

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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MAR 1 8 2010

RICHARD ARON OSMAN
3525 Del Mar Heights Rd. #915
San Diego CA 92130

In re Application of	:
Atamna et al	:Decision on Petition
Serial No.: 11/046,415	:
Filed : 29 January 2005	:
Attorney Docket No.:CHO-049	:

This letter is in response to the Petition filed on 17 September 2009 requesting reconsideration of the restriction requirement dated 3 February 2009. The petition was only recently brought to the deciding official's attention. The delay in acting upon this petition is regretted.

BACKGROUND

This application was filed as a national application under 35 USC 111(a). As such, this application is entitled to US restriction practice.

On 9 March 2007, the examiner required an election between the species in the original 18 method claims

Species 1: a method comprising porphyrin
Species 2: a method comprising a precursor
Species 3: a method comprising a cofactor.

On 19 March 2007, applicants elected "species 2, the porphyrin" and coproporhyrin III. This election is confusing because the examiner indicatd that Species 1 was porphyrin whiel Species 2 was a precursor.

On 5 September 2007, the examiner mailed to applicants a first Office action on the merits. In this action, the examiner does not acknowledge the election of species or clarify which species is being examined. From the prior art rejection, it appears that the examiner examined claims 1-18, and the administration of porphyrin in the first Office action on the merits. No claims were withdrawn from examination as being directed to a non-elected invention.

In the Final Office action on the merits mailed 12 June 2008, the examiner acknowledged the election and then withdrew the restriction requirement and made rejections on claims 1-18 final.

On 11 October 2008, applicants filed a request for continued examination along with an amendment to the claims.

On 3 February 2009, the examiner considered the amended claims and set forth an election of species requirement, wherein applicant was required to elect "Genus A: a specific method of increasing the level of porphyrin in an individual (e. g. administering porphyrin, administering a precursor of porphyrin, administering a cofactor in the biosynthetic pathway of porphyrin)." Applicant was not permitted to elect any other Genus besides Genus A. Applicant was also "required to elect a specific porphyrin (e.g., coproporphyrin III, aminolevulinic acid, pantothenic acid)."

On 5 February 2009, applicant elected Genus A and the species of uroporphyrin I with traverse.

On 17 April 2009, the examiner withdrew claims 32-43 from further consideration as being directed to non-elected species. Claims 30 and 31 were examined on the merits.

On 17 September 2009, applicants filed a response to the Office action and this petition.

DISCUSSION

The file history and petition have been considered carefully.

The petition requests that the second restriction requirement should be withdrawn in view of the fact that all the claims had already been examined on the merits.

It is noted that the filing of a Request for Continued Examination (RCE) does not alter any restriction requirement which had been made previously during examination. Nor should the filing of a RCE open the door for a new restriction requirement.

In the first and final Office actions, claims 1-18 were examined on the merits. This included examination of claims 3, 5, 7, and 9 as follows.

3. (Original) The method of claim 1 wherein the porphyrin is uroporphyrin III.

7. (Original) The method of claim 1 wherein the porphyrin is coproporphyrin III.

9. (Original) The method of claim 1 wherein the porphyrin is coproporphyrin I.

5. (Original) The method of claim 1 wherein the porphyrin is uroporphyrin I.

However, newly filed claims 32-34, which are directed to the same series of species had already been examined were withdrawn from consideration in the first office action sent after RCE. Only claim 31 was examined on the merits in 17 April 2009.

31. (previously presented) The method of claim 30 wherein the porphyrin is uroporphyrin I.

32. (previously presented - withdrawn) The method of claim 30 wherein the porphyrin is uroporphyrin III.

33. (previously presented - withdrawn) The method of claim 30 wherein the porphyrin is coproporphyrin I.

34. (previously presented - withdrawn) The method of claim 30 wherein the porphyrin is coproporphyrin III.

MPEP 803 sets forth two criteria for a proper requirement for restriction between patentably distinct inventions:

> (A) The inventions must be independent (see MPEP § 802.01, § 806.06, § 808.01) or distinct as claimed (see MPEP § 806.05 - § 806.05(j)); and
> (B) There would be a serious burden on the examiner if restriction is not required

In this instance, because the claims had already been examined on the merits and because the examiner withdrew the original restriction requirement, the second restriction requirement mailed after filing of a RCE was improper.

DECISION

For these reasons, the petition filed 17 September 2009 is **GRANTED**.

The restriction requirement mailed 3 February 2009 has been withdrawn.

The Office action mailed 17 April 2009 is incomplete for not addressing all the claims.

The application will be forwarded to the examiner for consideration of the papers filed on 17 September 2009 and for preparation of an Office action on all the pending claims consistent with this decision.

Should there be any questions regarding this decision, please contact Quality Assurance Specialist Julie Burke, by mail addressed to Director, Technology Center 1600, PO BOX 1450, ALEXANDRIA, VA 22313-1450, or by telephone at (571) 272-0512 or by Official Fax at 703-272-8300.

Remy Yucel
Director, Technology Center 1600

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NIXON PEABODY, LLP
300 S. Riverside Plaza, 16th Floor
CHICAGO, IL 60606-6613

Mail Date: 04/21/2010

Applicant	: Wayne H. Rothschild	: DECISION ON REQUEST FOR
Patent Number	: 7597209	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,423	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **834** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MORGAN LEWIS & BOCKIUS LLP/RAMBUS INC.
2 PALO ALTO SQUARE
3000 EL CAMINO REAL, SUITE 700
PALO ALTO, CA 94306

Mail Date: 04/20/2010

Applicant	: William J. Dally	: DECISION ON REQUEST FOR
Patent Number	: 7627069	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,451	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/27/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1202** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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SUITE 2800
ATLANTA, GA 30309

Mail Date: 04/21/2010

Applicant	: Philip H. Mudge	: DECISION ON REQUEST FOR
Patent Number	: 7586408	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,455	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1260** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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 & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: David Karrer	: DECISION ON REQUEST FOR
Patent Number	: 7635391	: RECALCULATION of PATENT
Issue Date	: 12/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,462	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: 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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1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 04/21/2010

Applicant	: Henk Gomarus Caroline Neefs	: DECISION ON REQUEST FOR
Patent Number	: 7607071	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,491	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1108** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 05/18/2010

Applicant : Henk Gomarus Caroline Neefs
Patent Number : 7607071
Issue Date : 10/20/2009
Application No : 11/046,491
Filed : 01/28/2005

: 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 **1144** 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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SAND & SEBOLT
AEGIS TOWER, SUITE 1100
4940 MUNSON STREET, NW
CANTON, OH 44718-3615

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JUN 20 2008

OFFICE OF PETITIONS

In re Application of :
Robert E. Platt :
Application No. 11/046,499 : DECISION ON PETITION
Filed: January 28, 2005 :
Attorney Docket No. 1522012US1AP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 3, 2007, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before November 26, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed August 24, 2007. Accordingly, the date of abandonment of this application is November 27, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $720 and the publication fee of $300, (2) the petition fee of $770; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

This application is being referred to Office of Data Management for processing into a patent.

April M. Wise
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YAHOO! INC.
C/O Ostrow Kaufman & Frankl LLP
The Chrysler Building
405 Lexington Avenue, 62nd Floor
NEW YORK, NY 10174

Mail Date: 04/20/2010

Applicant	: Daniel Patrick Dissett	: DECISION ON REQUEST FOR
Patent Number	: 7599966	: RECALCULATION of PATENT
Issue Date	: 10/06/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,501	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **322** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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SEP 29 2005

OFFICE OF PETITIONS

In re Application of	:	
David Teether	:	DECISION REFUSING STATUS
Application No. 11/046,533	:	UNDER 37 CFR 1.47(b)
Filed: January 28, 2005	:	
Attorney Docket No. SolTech-2	:	

This is in response to the petition under 37 CFR 1.47(b), filed September 9, 2005 (certificate of mailing dated September 7, 2005). Petitioner obtained an extension of time for response within the fourth month. Accordingly, the petition is filed timely.

The petition is dismissed.

Petitioner is given TWO (2) MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(b)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(b) requires: (1) proof that the inventor cannot be found or reached after a diligent effort or refuses to execute the application papers. See MPEP 409.03(d); (2) an acceptable oath or declaration pursuant to 37 CFR 1.63 and 1.64 or 1.175; (3) a petition fee; (4) a statement of the last known address of the non-signing inventor. See MPEP 409.03(e); (5) proof of proprietary interest in the subject matter of the application. See MPEP 409.03(f); and (6) proof that the filing of the application is necessary to preserve the rights of the parties or to prevent irreparable damage. See MPEP 409.03(g).

Petitioner lacks items (1) and (2) as set forth above.

As to item (1), it appears from the affidavit of Ronald E. Cahill that he did not mail the non-signing inventor a complete copy of the application papers, including the specification, claims, and drawings. Rather, Mr. Cahill presented the inventor with only copies of the petition, declaration, assignment, and power of attorney for the inventor's signature. Unless Mr. Cahill presented the non-signing inventor with a complete copy of the application papers, including the specification, claims and drawings, he could not attest that he has "reviewed and understands the application papers," and therefore, could not

sign the declaration that he was given. Accordingly, petitioner failed to show or provide proof that the non-signing inventor refused to sign the declaration. See MPEP 409.03(d). To show that the inventor refused to join in the application, petitioner must show that a complete copy of the application papers, including the specification, claims and drawings, was presented to the non-signing inventor, personally or through his designated representative, and that he did not respond to the request that he sign the declaration.

As to item (2), petitioner did not submit a declaration in compliance with 37 CFR 1.63 and 1.64. The Office notes that:

> The 37 CFR 1.47(b) applicant must make the oath required by 37 CFR 1.63 and 1.64 or 1.175. Where a corporation is the 37 CFR 1.47(b) applicant, an officer (President, Vice-President, Secretary, Treasurer, or Chief Executive Officer) thereof should normally sign the necessary oath or declaration. A corporation may authorize any person, including an attorney or agent registered to practice before the U.S. Patent and Trademark Office, to sign the application oath or declaration on its behalf. Where an oath or declaration is signed by a registered attorney or agent on behalf of a corporation, either proof of the attorney's or agent's authority in the form of a statement signed by an appropriate corporate officer must be submitted, or the attorney or agent may simply state that he or she is authorized to sign on behalf of the corporation. Where the oath or declaration is being signed on behalf of an assignee, see MPEP Section 324. An inventor may not authorize another individual to act as his or her agent to sign the application oath or declaration on his or her behalf. *Staeger v. Commissioner*, 189 USPQ 272 (D.D.C. 1976), *In re Striker*, 182 USPQ 507 (Comm'r Pat. 1973). **Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor. Also, the title or position of the person signing must be stated if signing on behalf of a corporation under 37 CFR 1.47(b).**

The declaration submitted on petition did not state the full name, residence, post office address, and citizenship of the non-signing inventor. Additionally, the declaration did not indicate the name and the title or position of the person signing on behalf of a corporation. Accordingly, to correct the deficiencies, petitioner must submit a new declaration. The Office suggests that petitioner utilizes Form PTO/SB/01 when submitting the new declaration on renewed petition. Petitioner should state the full name, residence, post office address, and citizenship of the non-signing inventor; however, the signature block of the non-signing inventor should be left blank. Additionally, to avoid any confusion as to the inventive entity, as well as to ensure the record is correct on its face, the Office requests that petitioner indicate the name and the title or position of the person signing on behalf of the non-signing inventor, as well as the person's signature in the blank space at the bottom of the form to avoid any mistaken belief that person signing on behalf of the non-signing inventor is also a named inventor in the subject application.

Further correspondence with respect to this matter should be addressed as follows and **directed to the attention of Senior Petitions Attorney Christina Tartera Donnell**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosures: Form PTO/SB/01 and Privacy Act Statement

UNITED STATES PATENT AND TRADEMARK OFFICE

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155 SEAPORT BOULEVARD
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OFFICE OF PETITIONS

In re Application of	:	
David Tether	:	DECISION ACCORDING STATUS
Application No. 11/046,533	:	UNDER 37 CFR 1.47(b)
Filed: January 28, 2005	:	
Attorney Docket No. SolTech-2	:	

This is in response to the renewed petition under 37 CFR 1.47(b), filed November 10, 2005.

Applicant showed that David Tether, the non-signing inventor, refused to join in the application after applicant mailed him a copy of the application papers. Specifically, the Supplemental Affidavit of Ronald B. Cahill stated that a copy of the application was mailed to the non-signing inventor for his signature at his last known address. Additionally, applicant showed that Solomon Technologies ("Solomon") has a proprietary interest in the above-identified application with the submission of a copy of a Proprietary Rights and Non-Competition Agreement. The Agreement stated that the non-signing inventor agreed that all proprietary information created by him during his employment with Solomon would be the sole property of Solomon, and assigned any rights he may have in such proprietary information to Solomon. Applicant averred that the filing was necessary to preserve the rights of the parties. Lastly, applicant submitted an acceptable declaration and previously paid the requisite petition fee.

This application and papers have been reviewed and found in compliance with 37 CFR 1.47(b). This application is hereby accorded Rule 1.47(b) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Initial Patent Examination for further processing.

Telephone inquires regarding this matter 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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David Tether
PO Box 2388
Tarpon Sprints FL 34688

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NOV 1 8 2005
OFFICE OF PETITIONS

In re Application of :
David Tether : LETTER
Application No. 11/046,533 :
Filed: January 28, 2005 :
Attorney Docket No. SolTech-2 :

Dear Mr. Tether:

You are named as the sole inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(b), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a sole inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

NUTTER MCCLENNEN & FISH LLP
WORLD TRADE CENTER WEST
155 SEAPORT BOULEVARD
BOSTON MA 02210-2604

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GROOVER & Associates
BOX 802889
DALLAS TX 75380-2889

In re Application of	:	
SCOTT, Bentley N.	:	
Application No. 11/046,534	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. **PHDS-34**	:	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 **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Robert Groover on behalf of all attorneys of record who are associated with customer No. 29106. All attorneys/agents associated with the Customer Number 29106 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence address of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor at the first copied address below until otherwise properly notified by the applicant.

There is an outstanding Office action mailed June 25, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

Tredelle D. Jackson
Paralegal Specialist
Office of Petitions

cc: **BENTLEY N. SCOTT**
3206 BRIDLE PATH COURT
GARLAND TX 75044

cc: **ELIZABETH PHAM**
MUNCK CARTER, P.C.
600 BANNER PLACE
12770 COIT ROAD
DALLAS TX 75251

UNITED STATES PATENT AND TRADEMARK OFFICE

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DOCKET CLERK
P.O. DRAWER 800889
DALLAS, TX 75380

Mail Date: 04/20/2010

Applicant	: Bentley N. Scott	: DECISION ON REQUEST FOR
Patent Number	: 7648836	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,534	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/28/2005	: 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.

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BALLARD SPAHR ANDREWS & INGERSOLL, LLP
SUITE 1000
999 PEACHTREE STREET
ATLANTA CA 30309-3915

MAILED

MAR 16 2009

OFFICE OF PETITIONS

In re Application of
Tom Reddin eet al
Application No. 11/046,545
Filed: January 28, 2005
Attorney Docket No. 12150.0011U7

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 25, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the nonfinal rejection mailed August 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 a continuation Application No.12/366,340, filed February 5, 2009; (2) the petition fee of $1,620.00; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/366,340.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

11-5-08

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Patent No. : 7,350,055
Ser. No. : 11/046,555
Inventor(s) : Biles, et. al.
Issued : March 25, 2008
Title : TIGHTLY COUUPLED ACCELERATOR
Docket No. :

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing ***incorrect or erroneous*** assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 *(see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481).* This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

A. **the processing fee set forth in 37 CFR 1.117(h) (currently $130);**
B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
40l Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently $100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) **308-9390 ext. 124** or 125

John R. Lastova
Nixon, & Vanderhye
901 North Glebe Road, 11th floor
Arlington, VA 22203-1808

ej

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OFFICE OF PETITIONS

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22203

In re Patent No. 7350055	:	
Issue Date: 03/25/2008	:	
Application No. 11/046555	:	ON PETITION
Filed: 01/31/2005	:	
Attorney Docket No. 550-627	:	

This is a decision on the petition filed November 18, 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) 272-3231. 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.

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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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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AUG 3 1 2009

OFFICE OF PETITIONS

In re Application of	:
Wood et al.	:
Application No. 11/046556	: DECISION ON PETITION
Filing or 371(c) Date: 01/28/2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. 944-003.218-1	:

This is a decision on the "Petition to Accept Unintentionally Delayed Claim for the Benefit of a Prior Application Under 35 U.S.C. § 120 (37 CFR § 1.78(a)(3))," to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of priority to the prior-filed application set forth in the Request for Certificate of Correction filed with the present petition.

The petition is **granted**.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed January 28, 2005. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the

> claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

Office records reveal that the present patent was corrected as requested in the Certificate of Correction filed with the present petition, on July 7, 2009.

Any inquiries concerning this decision may be directed to Derek Woods at (571) 272-3232.

This application is being referred to the files repository.

Anthony Knight
Supervisor
Office of Petitions

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Commissioner for Patents
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SHERIDAN ROSS P.C.
1560 BROADWAY, SUITE 1200
DENVER, CO 80202

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OFFICE OF PETITIONS

ON PETITION

In re Application of :
Masanori Konishi et al :
Application No. 11/046,585 :
Filed: January 28, 2005 :
Attorney Docket No. 3688ME-30-DIV

This is a decision on the petition, filed October 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 September 1, 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 Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2879 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

Irvin Dingle
Petitions Examiner
Office of Petitions

[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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COMMISSIONER FOR PATENTS
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SHERIDAN ROSS, PC
1560 BROADWAY
SUITE 1200
DENVER, CO 80202

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AUG 0 2 2007

OFFICE OF PETITIONS

In re Application of	:	
Masanori Konishi, et. al.	:	
Application No. 11/046,585	:	ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. 3688ME-30-DIV	:	

This is a decision on the petition under 37 CFR 1.137(b), filed on August 8, 2006 and supplemented on December 14, 2006, to revive the above-identified application.

The application became abandoned for failure to timely file a proper response to the Notice of Allowance and Fee(s) Due mailed December 29, 2005. A Notice of Abandonment was mailed on July 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 $1,400 for payment of the issue fee and $300 for payment of the publication fee previously submitted on September 1, 2005; (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay. Therefore, the petition is **GRANTED**.

This application file is being referred to the Office of Publications to be processed into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

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United States Patent and Trademark Office
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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P O BOX 14300
WASHINGTON, DC 20044-4300

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OCT 25 2005

OFFICE OF PETITIONS

In re Application of	:
Satoshi Ohishi et al	:
Application No. 11/046,589	:DECISION GRANTING PETITIONS
Filed: January 28, 2005	:UNDER 37 CFR 1.137(b)
Attorney Docket No. 029118.55862US	:AND 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.137(b), filed September 22, 2005, to revive the above-identified application. This is also a decision on the petition under 37 CFR 1.313(c)(2), filed October 14, 2005, to withdraw this application from issue after payment of the issue fee.

The petition under 37 CFR 1.137(b) is **GRANTED**.

The petition under 37 CFR 1.313(c)(2) is **GRANTED**.

Discussion of petition under 37 CFR 1.137(b)

This application became abandoned for failure to timely pay the issue and publication fees on or before September 19, 2005, as required by the Notice of Allowance and Fee(s) Due, mailed June 17, 2005.

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 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). Petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the issue and publication fees; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the issue and publication fees are accepted as having been unintentionally delayed.

Discussion of petition under 37 CFR 1.313(c)(2)

Petitioner requests, in the petition filed October 14, 2005, that this application be withdrawn from issue for consideration of a submission (an Information Disclosure Statement) under 37 CFR 1.114 (request for continued examination(RCE)).

The above-identified application is withdrawn from issue.

Petitioner is advised that the issue fee paid on September 22, 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 concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2125 for processing the RCE filed October 14, 2005 and for consideration of the concurrently filed Information Disclosure Statement.

Frances Hicks

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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William C. Fuess
10951 Sorrento Valley Road 2G
San Diego CA 92121-1613

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OFFICE OF PETITIONS

In re Application of	:	
Davalos et al.	:	
Application No.: 11/046592	:	ON PETITION
Filing or 371(c) Date: 01/29/2005	:	
Attorney Docket Number:	:	
PRE 0007P	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 23, 2007, to revive the above-identified application. The delay in treating this petition is regretted.

This Petition is hereby **granted**.

Background

The above-identified application became abandoned for failure to timely reply to the Office communication, mailed February 10, 2006. The Office communication set a one (1) month period for reply. Extensions of time under 37 CFR 1.136(a) were available.

Applicant filed a reply on April 11, 2006, including a one (1) month extension of time; however, Applicant submitted $55.00 as the fee for the extension of time request, when the fee at that time was $60.00.

Applicant filed a second reply to the Office action on May 15, 2006 (Certificate of Mailing dated May 10. 2006), and included a request and check for a two (2) month extension of time. The check was returned by the bank for insufficient funds.

No complete and proper reply having been received, the application became abandoned on April 17, 2007. A Notice of Abandonment was mailed October 1, 2007.

The present petition

Applicant files the present petition and response to the Office communication, and asserts that the check for a two (2) month extension of time was never presented to his bank. In support of this assertion, Applicant files a copy of his bank statements for the months of May and June 2006. Applicant asserts that, in view of his assertion that the check for the extension of time was

never presented to his bank, the holding of abandonment by this Office is in error and requests that any delay be found to have been unavoidable.

Analysis

A review of the copy of the bank statement for the month of May 2006 reveals that Applicant's bank account was charged a "Debit/Insufficient Funds Charge" of $25.00 on May 15, 2006, the same date that the check was received by this Office and presented to the bank for payment.

As such, petitioners request to treat the delay as unavoidable is dismissed.

Petition under 37 CFR 1.137(b)

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a response to the Restriction/Election Requirement and fee for insufficient funds; (2) the petition; and (3) the required statement of unintentional delay are filed with the present petition. Accordingly, the reply is accepted as having been unintentionally delayed.

The extension of time

Applicant is advised that an extension of time is only available to extend the period to reply to an Office action during the extendable period. Once the reply period, including the maximum extendable period, has lapsed, the application becomes abandoned (as of the day after the reply was due). No extensions of time are available. As such, a refund of the extension of time fees of $225.00 and $55.00 have been scheduled via Treasury Check[1]..

This application is being forwarded to Technology Center Art Unit 1631 for processing of the response in due course.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

[1] Office records also reveal that Applicant submitted a check in the amount of $275.00 for " "a paper filed under 37 CFR 1.115," which was returned to Applicant.

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HOUSTON TX 77058

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OFFICE OF PETITIONS

In re Application of	:	
Armstrong et al.	:	
Application No. 11/046600	:	DECISION ON APPLICATION
Filing/371(c) Date: 01/28/2005	:	FOR PATENT TERM ADJUSTMENT
Patent No. 7,454,245	:	
Issued: 11/18/2008	:	
Title of Invention:	:	
TRAINED AND ADAPTIVE RESPONSE	:	
IN A NEUROSTIMULATOR	:	

This is a decision on the "PETITION UNDER 37 CFR § 1.705(d); REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION", filed November 20, 2008. Patentee requests that the revised patent term adjustment indicated on the face of the patent be corrected from 74 days to 186 days.

The application for patent term adjustment is **DISMISSED**.

Patentee is given **two (2) months** to respond to this decision. No extensions of time will be granted under 37 C.F.R. § 1.136(a).

On November 18, 2008, the above-identified application matured into U.S. Patent No. 7,454,245. The patent issued with a PTA of 74 days. The present request for reconsideration of patent term adjustment was timely filed within two months of the issue date of the patent.

Patentee contests the reduction of 112 days in connection with the drawings filed July 30, 2008. Patentee argues that drawings were filed in the present application on October 15, 2007 (Certificate of Mailing dated October 9, 2007). Patentee further asserts that the Advisory Action mailed December 21, 2007 was silent regarding the drawings filed October 15, 2007. Patentee argues that the drawings were re-submitted July 25,

2008 solely on the basis that the Advisory Action failed to state whether the previously submitted drawings were either acceptable or unacceptable. Patentee further argues that because the Office failed to state whether the previously submitted drawings were either acceptable or unacceptable, that any delay in issuance of the patent was not the result of Patentee's delay.

Patents' arguments have been carefully considered, but found unconvincing. A review of the record reveals that an after-final amendment, including drawings, was filed October 15, 2007. A Request for Continued Examination ("RCE") and an Amendment were filed January 28, 2008; however, no drawings were filed at that time. The Notice of Allowance mailed May 2, 2008 included an Examiner's Amendment, wherein the Examiner advised that "[r]eplacement drawings still must be submitted, including drawing changes required by the Office action mailed 8/7/2007. While replacement drawings were filed on 10/15/2007 that would have been acceptable to the examiner, they were filed in an Amendment After Final that was never entered." Replacement drawings were submitted post-allowance on July 30, 2008.

In accordance with 37 CFR 1.704(c)(10), submission of drawings after the Notice of Allowance has been give or mailed is a failure to engage in reasonable efforts to conclude prosecution. *See, Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). *See, also*, MPEP 2737.

In view thereof, no adjustment to the patent term will be made.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

Alesia Brown
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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KIRKPATRICK & LOCKHART NICHOLSON GRAHAM LLP
75 STATE STREET
BOSTON, MA 02109-1808

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OFFICE OF PETITIONS

In re Application of
Steven W. Opolski
Application No. 11/046,643
Filed: January 26, 2005
Attorney Docket No. NMT-019

: DECISION GRANTING PETITION

This is a decision on the "Petition to Correct Filing Date of Filed Application", filed September 16, 2005, under 37 CFR 1.10(d), requesting that the above-identified application be accorded a filing date of January 26, 2005, rather than the presently accorded filing date of January 27, 2005.

Petitioner alleges that the application was deposited in Express Mail service on September 26, 2005. Petitioner acknowledges that the date-in on the Express Mail Label indicates that Express Mail package EV093437839US was accepted by the USPS on January 27, 2005, but explains that the Express Mail Customer label has a USPS postmark of January 26, 2005. Additionally, petitioner argues that the last scheduled pick up at the Fort Point Station, Boston, MA is 8:00pm and that according to information found in the USPS Track and Confirm database, the package was accepted at 5:13pm.

In view of the evidence present in the file, it is concluded that the incorrect filing date was occasioned by postal service error, that the date of deposit in Express Mail service was January 26, 2005 and therefore, the application is entitled to a filing date of January 26, 2005.

The petition is **GRANTED**. Therefore, no fees are due and none will be charged.

The application is being returned to Office of Initial Patent Examination for reprocessing with a filing date of January 26, 2005, not January 27, 2005 and for issuance of a corrected filing receipt.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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Commissioner for Patents
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KLAUS J. BACH
4407 TWIN OAKS DRIVE
MURRYSVILLE PA 15668

In re Application of	:	
Richter	:	
Application No. 11/046,646	:	DECISION
Filed: 28 January, 2005	:	
Attorney Docket No. RI 197	:	

This is a decision on the petition, filed on 3 March, 2008, for revival of an application abandoned due to unavoidable delay under 37 C.F.R. §1.137(a).[1]

The Office regrets the delay in addressing this matter, however, the instant petition was presented to the attorneys in the Office of Petitions only at this writing.

The petition under 37 C.F.R. §1.137(a) is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(a)." Petitioner's alternative is to file a petition under 37 C.F.R. §1.137(b), discussed below.

This is **not** a final agency action within the meaning of 5 U.S.C.§704.

[1] A review of the extensive discussion at/in the guidance set forth in the commentary at MPEP §711.03(c)(I)(A) and (B) might suggest that the factual averments set forth in the instant petition may be appropriate for a petition (no fee) to withdraw the holding of abandonment and consideration under 37 C.F.R. §1.181. However, Applicant's failure to seek relief timely under the rule (within two (2) months of the action complained of (Notice of Abandonment) leaves Applicant with a petition to revive under the provisions of 37 C.F.R. §1.137(a) or (b) as the proper route to obtain a return to pending status for the instant application.

As to Allegations of
Unavoidable Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(a) are the petition and fee therefor, a reply, a proper showing of unavoidable delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

Applicant does not appear to satisfy the showing requirements as to unavoidable delay. Petitioner filed an after-final amendment rather than timely and properly file a request for continued examination with fee and submission (in the form of Petitioner's amendment) under 37 C.F.R. §1.114, or other proper reply. Such action does not satisfy the requirements of a showing of unavoidable delay. (*See*: *ex parte Pratt*.[2])

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the final Office action mailed on 26 July, 2007, with reply due absent extension of time on or before 26 October, 2007.

On 20 November, 2007, Petitioner filed, *inter alia*, with a request and fee for extension of time, an after-final amendment, which Petitioner as one registered to practice before the Office is aware is not of right and was not a proper reply,[3] and the Examiner mailed an Advisory Action on 30 January, 2008.

The application went abandoned after midnight 26 November, 2007

It does not appear that the Office mailed the Notice of Abandonment before the instant petition was filed.

On 3 March, 2008, Applicant filed the instant petition with fee, a reply in the form of a request for continued examination with fee and submission (in the form of Petitioner's amendment) under 37 C.F.R. §1.114, and Petitioner complained that he believed that his after-final amendment was sufficient following his conversation with the Examiner (documented only with an Interview Summary indicating that a phone conference occurred but no evidence of the

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[2] 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).

[3] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (See: MPEP §711.03(c).)

Examiner's allowance), and Petitioner so complains in the face of the clear requirement that all practice before the Office is in writing (*see*: 37 C.F.R. §1.2[4]), when Petitioner could have filed a proper reply (with request and fee for extension of time before the end of the statutory period for reply. Petitioner also complains that he had to await authorization to file the instant petition when such authorization—or such to file the proper reply—could have been obtained in advance. (*See*: *ex parte Pratt*.) Further, for reasons that are not apparent Petitioner filed with the petition a request and fee for extension of time, which was inappropriate. However, it appears that the fee was not charged. Should Petitioner find that the fee was charged, Petitioner should file a request for refund of the fee, accompanied by a copy of this decision, with the Office of Finance.

The Office mailed the Notice of Abandonment on 25 March, 2008.

Out of an abundance of caution, Applicants always are reminded that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[5]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

As to Allegations of
Unavoidable Delay

The requirements under 37 C.F.R. §1.137(a) have not been satisfied as of this writing in that Applicant failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(a) is **dismissed**.

---

[4] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

[5] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Applicant's duty of candor and good faith and accepting a statement made by Applicant. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

ALTERNATIVE VENUE

Applicant may file a petition under 37 C.F.R. §1.137(b) and aver unintentional delay. (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional" (the statement is in the form available online), and a terminal disclaimer and fee where appropriate.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

While telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214, it is noted that all practice before the Office is in writing (see: 37 C.F.R. §1.2[6]) 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 Applicant's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[6] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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OFFICE OF PETITIONS

In re Application of	:	
Richter	:	
Application No. 11/046,646	:	DECISION
Filed: 28 January, 2005	:	
Attorney Docket No. RI 197	:	

This is a decision on the petition, filed on 12 November, 2008, for revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b).

The petition as considered under 37 C.F.R. §1.137(b) is **GRANTED**.

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee. (However, it does not appear that a terminal disclaimer and fee are due here.)

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the final Office action mailed on 26 July, 2007, with reply due absent extension of time on or before 26 October, 2007.

On 20 November, 2007, Petitioner filed, *inter alia*, with a request and fee for extension of time, an after-final amendment, which Petitioner as one registered to practice before the Office is

aware is not of right and was not a proper reply,[1] and the Examiner mailed an Advisory Action on 30 January, 2008.

The application went abandoned after midnight 26 November, 2007

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 3 March, 2008, Applicant filed a petition pursuant to 37 C.F.R. §1.137(a), averring unavoidable delay, with fee, a reply in the form of a request for continued examination (RCE) with fee and submission (in the form of Petitioner's amendment) under 37 C.F.R. §1.114. Petitioner complained that he believed that his after-final amendment was sufficient following his conversation with the Examiner (documented only with an Interview Summary indicating that a phone conference occurred but no evidence of the Examiner's allowance)—a complaint lodged in the face of the clear requirement that all practice before the Office is in writing (*see*: 37 C.F.R. §1.2) when Petitioner could have filed a proper reply (with request and fee for extension of time before the end of the statutory period for reply. Petitioner also complains that he had to await authorization to file the instant petition when such authorization—or such to file the proper reply—could have been obtained in advance. (*See*: *ex parte Pratt*.) The petition was dismissed on 2 September, 2008. (For reasons that were not apparent Petitioner filed with the petition a request and fee for extension of time, which was inappropriate. It appeared that the fee was not charged, however, Petitioner was informed that should Petitioner find that the fee was charged, Petitioner should file a request for refund of the fee, accompanied by a copy of the decision, with the Office of Finance.)

The Office mailed the Notice of Abandonment on 25 March, 2008.

On 11 November, 2008, Petitioner filed, *inter alia*, a request and fee for extension of time, a petition pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with fee, a reply resubmitted in the form a request for continued examination (RCE) with fee and submission (in the form of Petitioner's amendment) under 37 C.F.R. §1.114, and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice <u>and</u> all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

---

[1] A proper reply is an amendment *prima facie* placing the application in condition for allowance, a Notice of Appeal, or an RCE (with fee and submission under 37 C.F.R. §1.114). (<u>See</u>: MPEP §711.03(c).)

[2] <u>See</u> 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. <u>See</u> <u>Changes to Patent Practice and Procedure</u>, 62 <u>Fed. Reg.</u> at 53160 and 53178, 1203 <u>Off. Gaz. Pat. Office</u> at 88

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[3]
The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.[4]))

As to Allegations of Unintentional Delay

It appears that the requirements under 37 C.F.R. §1.137(b) have been satisfied.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to Technology Center/AU 3632 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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and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[4] Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[5] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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DEMONT & BREYER, LLC
100 COMMONS WAY, STE. 250
HOLMDEL NJ 07733

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SEP 20 2007

OFFICE OF PETITIONS

In re Application of	:
Georg Fehrenbacher et al	:
Application No. 11/046,648	: DECISION GRANTING PETITION
Filed: January 28, 2005	: UNDER 37 CFR 1.137(b)
Attorney Docket No. 9771-035US	:

This is a decision on the petition under 37 CFR 1.137(b), filed April 24, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an RCE and an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Rejection of May 26, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 3663

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/046,648	01/28/2005	Georg Fehrenbacher	9771-035US	5584

22897 7590 03/19/2008
DEMONT & BREYER, LLC
100 COMMONS WAY, Ste. 250
HOLMDEL, NJ 07733

EXAMINER
DUDNIKOV, VADIM

ART UNIT	PAPER NUMBER
3663	

MAIL DATE	DELIVERY MODE
03/19/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

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FROM DIRECTORS OFFICE

MAR 18 2008

TECHNOLOGY CENTER 3600

DERMONT & BREYER, LLC
100 COMMONS WAY, STE. 250
HOLMDEL, NJ 07733

In re Application of
Georg Fehrenbacher et al
Application No. 11/046648
Filed: January 28, 2005
For: SCREENED CHAMBER FOR ION THERAPY

PETITION TO ACCEPT COLOR DRAWINGS/PHOTOGRAPHS

This is a decision on applicant's petition under 37 CFR 1.184(A)(2) filed March 7, 2008 to accept color drawings/photographs.

For the acceptance of color drawings in accordance with 37 CFR 1.184(A)(2), a petition is required which fulfills the following requirements:

(i) The appropriate fee set forth in 1.17(h),
(ii) three (3) sets of color drawings/photographs, and
(iii) amending the specification to contain the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings: "The file of this patent contains at least one drawing executed in color photography. Copies of this patent with color photographs will be provided by the Patent and Trademark Office upon request and payment of necessary fee."

Having met the requirements of 37 CFR 1.184(A)(2), the petition is **GRANTED**.

Any questions or comments with respect to the decision should be forwarded to Supervisory Patent Examiner, Jack Keith at the number listed below.

Jack Keith
Supervisory Patent Examiner
Art Unit 3663
(571) 272-6878

jwk: 3/17/08

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Charles A. Wendel
STEPTOE & JOHNSON LLP
1330 Connecticut Avenue N.W.
Washington DC 20036

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JAN 23 2008

OFFICE OF PETITIONS

In re Application of	:	
Tadaaki Mimura et al.	:	
Application No. 11/046,697	:	DECISION GRANTING PETITION
Filed: February 1, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. YMOR:371	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed January 23, 2008, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on December 5, 2007 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to Terri Williams at (571) 272-2991.

This application is being referred to Technology Center AU 2822 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.*

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/046,700	01/31/2005	Akihiro Morohashi	277892US6DIV	3657

22850 7590 06/26/2009
OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER
KAPLAN, BENJAMIN A

ART UNIT	PAPER NUMBER
2434	

NOTIFICATION DATE	DELIVERY MODE
06/26/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

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JUN 26 2009

TECHNOLOGY CENTER 2100

OBLON, SPIVAK, MCCLELLAND MAIER &
NEUSTADT, P.C.
1940 Duke Street
Alexandria, VA 22314

In re Application of: MOROHASHI, Akihiro
Application No. 11/046,700
Filed: January 31, 2005
Docket: 277892US6DIV
For: COMMUNICATIONS SYSTEM AND ITS METHOD AND COMMUNICATION APPARATUS AND ITS METHOD

DECISION ON PETITION
TO MAKE SPECIAL
(ACCELERATED EXAMINATION)
UNDER M.P.E.P. §708.02 (VIII)

This is a response to the petition filed January 31, 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 AS MOOT**.

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.

DECISION

The petition filed January 31, 2005 fails to adequately meet requirement (c) of the criteria set forth above. The pre-examination search does not *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. The pre-examination search filed on January 31, 2005 only presents a field of search listing a class, *such as class 707* **without** *listing the subclass*. Furthermore, the pre-examination search does not *lists the foreign patents* searched. As indicated in the requirement (c), a search made by a foreign patent office will satisfies this requirement.

A review of the record indicates that the application has been taken up by the examiner for examination. On October 7, 2008 a Non-Final office action was mailed. On December 18, 2008, an Amendment after Non-Final was filed in response to the Non-Final office action mailed on October 7, 2008. On March 18, 2009, a Final office action was mailed.

Therefore, the application has been taken up for final disposition.

Accordingly, the petition is **DISMISSED AS MOOT**.

Any inquiry regarding this decision should be directed the undersigned whose telephone number is (571) 272-4147.

If attempts to reach the undersigned by telephone are unsuccessful, Beatriz Prieto, Quality Assurance Specialist, can be reached at (571) 272-3902.

/pl/

Kim Huynh,
Quality Assurance Specialist
Technology Center 2400
Network, Multiplexing, Cable and Security

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OFFICE OF PETITIONS

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

In re Patent No. 7,617,537
Issued: November 10, 2009
Application No. 11/046,700
Filed: January 31, 2005
Attorney Docket No. 277892US6DIV

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the PETITION UNDER 37 C.F.R. §1.705(d) AND REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT filed on January 11, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from 921 days to 1123 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 twenty-two (1122) days is **GRANTED to the extent indicated herein**.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on January 31, 2008 and ends on April 26, 2009, the day before the RCE was filed, and the B delay considering the 250 days of overlap is 451 (not 452) days. See 35 U.S.C. 154(b)(1)(B)(i). Non-overlapping B delay is 201 days. As such, the patent term adjustment is 1122, not 1123 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the

term of the above-identified patent is extended or adjusted by **one thousand one hundred twenty-two (1122)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,617,537 B2

DATED : November 10, 2009

INVENTOR(S) : Akihiro Morohashi

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 (921) days

Delete the phrase "by 921 days" and insert – by 1122 days--

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LEE & HAYES PLLC
421 W RIVERSIDE AVENUE SUITE 500
SPOKANE, WA 99201

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MAY 23 2008

In re Application of :
Robert William Lord, et al. :
Application No. 11/046,723 : ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. M-16229 US :

This is a decision on the petition, filed January 24, 2008, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The above-identified application became abandoned for failure to respond in a timely manner to the Notice of Allowability mailed August 28, 2007. A Notice of Abandonment was mailed on January 4, 2008. In response, on January 24, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of corrected drawings; (2) the petition fee of $1.540 and (3) an adequate statement of unintentional delay[1].

Accordingly, the petition is **GRANTED**.

The application is being referred to the Office of Data Management to oversee the review of the drawing filed January 24, 2008.

Telephone inquires related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[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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JAGTIANI + GUTTAG
10363-A DEMOCRACY LANE
FAIRFAX VA 22030

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JUN 04 2009
OFFICE OF PETITIONS

In re Application of	:	
Jack L. Jewell	:	
Application No. 11/046,735	:	DECISION ON PETITION
Filed: February 1, 2005	:	TO WITHDRAW
Attorney Docket No. PICO-0045-DV1	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 17, 2008.

The request is **NOT APPROVED** because it is moot.

Steven B. Kelber, Registration No. 30,073 is no longer suspended to practice from practicing before the United States Patent and Trademark Office. He will remain the attorney of record of the above identified patent application.

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

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Seok-Jong Lee	: DECISION ON REQUEST FOR
Patent Number	: 7585573	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,758	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1046** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Hung-Hsiang Wang	: DECISION ON REQUEST FOR
Patent Number	: 7570666	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,766	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1152** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.
1100 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Thomas J. Kolze	: DECISION ON REQUEST FOR
Patent Number	: 7602867	: RECALCULATION of PATENT
Issue Date	: 10/13/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,783	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1100** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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H.C. PARK & ASSOCIATES, PLC
8500 LEESBURG PIKE
SUITE 7500
VIENNA, VA 22182

Mail Date: 04/20/2010

Applicant	: Won-Jong Kim	: DECISION ON REQUEST FOR
Patent Number	: 7659012	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,797	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **573** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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5350 SHAWNEE ROAD
SUITE 330
ALEXANDRIA VA 22312

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OFFICE OF PETITIONS

In re Application of

Ronald C. Amos et al
Application No. 11/046,809
Filed: February 1, 2005
Attorney Docket No. US 1415/04

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 July 23, 2007, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement by Mr. Ronald C. Amos that he is "more than 65 years of age." Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-3218.

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 1773 for action on the merits commensurate with this decision.

Frances Hicks
Petitions Examiner
Office of Petitions

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WASHINGTON, DC 20003

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OFFICE OF PETITIONS

In re Application of
Salvatore Rizzoli, et al.
Application No. 11/046,830
Filed: February 1, 2005
Attorney Docket No: 2545-0467

ON PETITION

This is a decision on the petition, filed November 25, 2008, to revive the above-identified application under the unintentional provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 7, 2008. A Notice of Abandonment was mailed on October 30 2008. On November 25, 2008, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620; and (3) an adequate statement of unintentional delay.

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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OFFICE OF PETITIONS

FITZPATRICK CELLA HARPER & SCINTO
30 ROCKEFELLER PLAZA
NEW YORK NY 10112

In re Patent No. 7,190,914	:
Nihonyanagi, et al.	: DECISION REGARDING
Issue Date: March 13, 2007	: PATENT TERM ADJUSTMENT
Application No. 11/046,836	: AND
Filed: February 1, 2005	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 03500.109442	: CERTIFICATE OF CORRECTION

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)", filed May 14, 2007, requesting correction of the patent term adjustment (PTA) indicated on the patent from sixty-nine (69) days to one hundred forty-seven (147) days.

The petition is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **one hundred forty-seven (147)** days.

On March 13, 2007, the above-identified application matured into U.S. Patent No. 7,111,144. On May 14, 2007, patentees timely filed the instant application for patent term adjustment (May 13, 2007 fell on a Sunday. See 37 CFR 1.7(a)).

The patent issued with a Patent Term Adjustment of sixty-nine (69) days. Patentees state that they were erroneously assessed applicant delay of seventy-eight (78) days for filing drawings after the mailing of the Notice of Allowance. The Notice of Allowance was mailed on September 22, 2006. Applicants filed the issue fee, together with a Rule 312 Amendment and drawings, on October 11, 2006. The Office mailed a Response to Rule 312 Communication on October 23, 2006, stating that the Amendment had been entered. Applicants were assessed applicant delay of thirteen (13) days pursuant to 37 C.F.R.

§ 1.704(c)(10). Subsequently, on January 9, 2007, the Office mailed a Notice to File Corrected Application Papers, requiring corrections to the drawings. Applicants filed corrected drawings on January 29, 2007, and were assessed delay of forty-four (44) and seventy-eight (78) days. However, as the application issued on March 13, 2007, applicants only should have been assessed delay of forty-four (44) days pursuant to 37 C.F.R. 1.704(c)(10), not seventy-eight (78) days. § 1.704(c)(10) states that:

> 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 view thereof, issuance of a certificate of correction pursuant to 35 U.S.C. 254 and 37 C.F.R. § 1.322 is appropriate. The correct number of days of patent term adjustment is one hundred forty-seven (147) days (204 (174+30) days of PTO delay, reduced by 57 (44+13) days of applicant delay).

Receipt of the $200 fee under 37 CFR §1.18(e) is acknowledged.

The matter is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 CFR 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **one hundred forty-seven (147)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,190,914 B2

DATED : March 13, 2007

INVENTOR(S) : Nihonyanagi 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 (69) days

Delete the phrase "by 69" and insert – by 147 days--

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OFFICE OF PETITIONS

In re Patent No. 7,425,622	:
Issued: September 16, 2008	: DECISION ON APPLICATION
Application No. 11/046,857	: FOR PATENT TERM ADJUSTMENT
Filed: February 1, 2005	:
Attorney Docket No. PF588P1	:

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)" filed November 16, 2008, requesting that the patent term adjustment determination for the above-identified patent be changed from three hundred two (302) days to five hundred thirty (530) days.

The request for reconsideration of patent term adjustment is **DISMISSED**.

On September 16, 2008, the above-identified application matured into US Patent No. 7,425,622 with a patent term adjustment of 302 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 530 days, which includes 228 days of patent term adjustment due to exceeding three year pendency and 394 days due to USPTO delay in prosecution."

The 228-day period is calculated based on the application having been filed under 35 U.S.C. 111(a) on February 1, 2005, and the patent having been issued on September 16, 2008, three years and 228 days later. Patentees assert that in addition to this 228-day period, they are entitled to a period of adjustment due to examination delay pursuant to 37 CFR 1.702(a), of 394 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 92 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 (228 days) and the period of Examination Delay (394 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 530 days, which is the sum of the period of Three Year Delay (228 days) and the period of Examination Delay (394 days), reduced by the period of overlap (0 days). As such, patentees assert entitlement to a patent term adjustment of 530 days (228 + 394 reduced by 0 overlap – 92 (applicant delay)).

The Office agrees that as of the issuance of the patent on September 16, 2008, the application was pending three years and 228 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 302 days is correct. At issue is whether patentees should accrue 228 days of patent term adjustment for the Office taking in excess of three years to issue the patent, as well as 394 days for Office failure to take a certain action within a specified time frame (or examination delay).

The Office contends that 228 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 February 1, 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, February 1, 2005, to the date the patent issued on September 16, 2008. Prior to the issuance of the patent, 394 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 228 days for Office delay in issuing the patent overlap with the 394 days of Office delay. During that time, the issuance of the patent was delayed by 394 days, not 394 + 228 days. The Office took 14 months and 394 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 228 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 228 days. The Office did not delay 394 days and then an additional 228 days. Accordingly, 394 days of patent term adjustment (not 394 and 228

[1] The AIPA is title IV of the Intellectual Property and Communications Omnibus Reform Act of 1999 (S. 1948), which was incorporated and enacted as law as part of Pub. L. 106-113. The Conference Report for H.R. 3194, 106th Cong. 1st Sess. (1999), which resulted in Pub. L. 106-113, does not contain any discussion (other than the incorporated language) of S. 1948. A section-by-section analysis of S. 1948, however, was printed in the Congressional Record at the request of Senator Lott, See 145 Cong. Rec. S14,708-26 (1999)(daily ed. Nov. 17, 1999).

days) was properly entered since the period of delay of 228 days attributable to the delay in the issuance of the patent overlaps with the adjustment of 394 days attributable to grounds specified in § 1.702(a)(1). Entry of both periods is not warranted. Thus, 394 days is determined to be the actual number of days that the issuance of the patent was delayed, considering the 228 days over three years to the issuance of the patent.

Accordingly, at issuance, the Office properly entered 302 days of patent term adjustment.

In view thereof, no adjustment to the patent term will be made.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A. Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Day : Thursday
Date: 7/16/2009

PALM INTRANET

Time: 06:04:01

PTA Calculations for Application: 11/046857			
Application Filing Date:	02/01/2005	PTO Delay (PTO):	394
Issue Date of Patent:	09/16/2008	Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	92
Post-Issue Petitions:	0	Total PTA (days):	302
PTO Delay Adjustment:	0		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
41.5	08/27/2008	PTA 36 MONTHS			
41	09/16/2008	PATENT ISSUE DATE USED IN PTA CALCULATION			
40	07/01/2008	EXPORT TO FINAL DATA CAPTURE			
39	06/30/2008	DISPATCH TO FDC			
38	06/30/2008	APPLICATION IS CONSIDERED READY FOR ISSUE			
37	06/27/2008	ISSUE FEE PAYMENT VERIFIED			
36	06/27/2008	ISSUE FEE PAYMENT RECEIVED			
35	05/07/2008	FINISHED INITIAL DATA CAPTURE			
34	04/17/2008	SEQUENCE FORWARDED TO PUBS ON TAPE			
33	04/11/2008	EXPORT TO INITIAL DATA CAPTURE			
32	04/07/2008	MAIL NOTICE OF ALLOWANCE			
31	04/04/2008	ISSUE REVISION COMPLETED			
30	04/04/2008	DOCUMENT VERIFICATION			
29	04/04/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
28	03/30/2008	ISSUE REVISION COMPLETED			
27	03/30/2008	DOCUMENT VERIFICATION			
26	03/30/2008	NOTICE OF ALLOWABILITY			
25	01/28/2008	DATE FORWARDED TO EXAMINER			
24	01/10/2008	RESPONSE AFTER NON-FINAL ACTION		92	22
23	01/10/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	07/10/2007	MAIL NON-FINAL REJECTION			
21	07/06/2007	NON-FINAL REJECTION			
20	03/14/2007	INFORMATION DISCLOSURE STATEMENT			

		CONSIDERED			
19	06/09/2007	DATE FORWARDED TO EXAMINER			
18	05/30/2007	RESPONSE TO ELECTION / RESTRICTION FILED			
17	04/30/2007	MAIL RESTRICTION REQUIREMENT	394		-1
16	04/28/2007	REQUIREMENT FOR RESTRICTION / ELECTION			
15	03/14/2007	REFERENCE CAPTURE ON IDS			
14.7	03/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	03/14/2007	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	11/28/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	07/22/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	07/22/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	03/31/2005	APPLICATION DISPATCHED FROM OIPE			
9	03/31/2005	APPLICATION IS NOW COMPLETE			
8	03/10/2005	ADDITIONAL APPLICATION FILING FEES			
7	03/10/2005	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
5	02/22/2005	CLEARED BY OIPE CSR			
4	02/16/2005	CRF IS GOOD TECHNICALLY / ENTERED INTO DATABASE			
3	02/15/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
2	02/01/2005	CRF DISK HAS BEEN RECEIVED BY PREEXAM / GROUP / PCT			
1	02/01/2005	INITIAL EXAM TEAM NN			

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EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Letters Patent of:
Rosen et al.

Docket No.: PF588P1

Patent No.: 7,425,622

Issued: September 16, 2008

For: ANTIBODIES AGAINST C3A RECEPTOR

APPLICATION FOR PATENT TERM ADJUSTMENT
UNDER 37 C.F.R. § 1.705(d)

MS Patent Ext.
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Patentees hereby request reconsideration of the Patent Term Adjustment (PTA) indicated on the face of U.S. Patent No. 7,425,622. Patentees believe the correct PTA is 530 days (not 302 days) under the interpretation of 35 U.S.C. § 154 articulated by the U.S. District Court for the District of Columbia in *Wyeth v. Dudas*, No. 07-1492 (September 30, 2008)(*Wyeth*)(attached as Exhibit A herewith).

This request is being timely made, as it is submitted within two months of the issuance of the patent, and could not have been made in an application for PTA under 37 C.F.R. § 1.705(b) because the request pertains to the issue date of the captioned patent and the appropriate PTA due under 35 U.S.C. § 154(b)(1)(B). The requirements of 37 C.F.R. § 1.705(b)(1) are satisfied by the electronic fee transmittal submitted herewith, authorizing payment of the fee set forth in 37 C.F.R. 1.18(e). The requirements of 37 C.F.R. § 1.705(b)(2) are satisfied by the following Statement of Facts.

STATEMENT OF FACTS

1. The application for the instant patent was filed on February 1, 2005, and is thus eligible for PTA under 35 U.S.C. § 154.

2. The instant application is not subject to a terminal disclaimer.

3. A declaration by the inventors was filed on March 10, 2005 with the appropriate fee.

4. The instant application was filed on February 1, 2005. However, the Office failed to initially act on the application within the 14 month permitted time frame allowed under 35 U.S.C. § 154(b)(1)(A). In particular, an office action was not mailed until April 30, 2007. Thus, Patentees are entitled to a PTA of 394 days due to the Patent Office's delay from the day after the date fourteen months after the application was filed (April 2, 2006) to the date of mailing of the first notification under 35 U.S.C. 132 (April 30, 2007). *See* 35 U.S.C. § 154(b)(1)(A) and 37 C.F.R. §§ 1.702(a)(1) & 1.703(a)(1).

5. A non-final office action was mailed on July 10, 2007.

6. A response to the non-final office action was filed on January 10, 2008 with a petition for an extension of time of three months. Pursuant to 37 C.F.R. § 1.704, this filing incurred a PTA reduction of 92 days from the day after the date three months after the mailing of the office action (October 11, 2007) to the date of the response (January 10, 2008).

7. On April 7, 2008, a notice of allowance was mailed. Together with the notice of allowance, a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) was mailed indicating a PTA of 302 days, taking the above adjustments and reductions into account.

8. The issue fee transmittal form was filed, and the issue fee was timely paid, on June 27, 2008.

9. The instant patent was issued on September 16, 2008. Accordingly, the Office failed to issue the patent within three years pursuant to 35 U.S.C. § 154(b)(1)(B). Thus, Patentees are entitled to a PTA of 228 days due to the Patent Office's delay from the day after the date three years after the application was filed (February 2, 2008) to the date that the patent was issued (September 16, 2008), to the extent that such delay does not overlap

with other periods of delay. *See* 35 U.S.C. §§ 154(b)(1)(B) and 154(b)(2) and 37 C.F.R. § 1.703(b).

10. Other than the circumstances described above, there have been no circumstances that could reasonably be construed as a failure to engage in reasonable efforts to conclude processing or examination of this application.

11. On September 30, 2008, the U.S. District Court for the District of Columbia decided *Wyeth v. Dudas*, No. 07-1492 (D.D.C. September 30, 2008)("*Wyeth*")(attached as Exhibit A). In *Wyeth*, the District Court disagreed with the PTO's interpretation that the entire period during which an application is pending before the PTO (excluding the periods of 35 U.S.C. § 154(b)(1)(B)(i)-(iii)) is the relevant period for determining whether periods of delay under 35 U.S.C. § 154(b)(1)(B) (37 C.F.R. §§ 1.702(b) and 1.703(b)) overlap with periods of delay under 35 U.S.C. § 154(b)(1)(A) (37 C.F.R. §§ 1.702(a) and 1.703(a)). Specifically, the District Court disagreed with the PTO's interpretation because it considers an application as delayed under 35 U.S.C. § 154(b)(1)(B) during the period before it has been delayed under the three-year pendency provision. *See, e.g.*, *Wyeth* at pages 8-9. In addition, the District Court found the language in 35 U.S.C. § 154(b)(2)(A) and 37 C.F.R. § 1.703(f) regarding the overlap of the periods was not ambiguous and indicated that delays under 35 U.S.C. § 154(b)(1)(B) ("B delays" in *Wyeth*) begin "when the PTO has failed to issue a patent within three years, not before." *Wyeth* at page 9.

ARGUMENT

Patentees do not disagree with the Office's calculation of PTA under 35 U.S.C. § 154(b)(1)(A) (394 days) or the Office's calculation of PTA reduction under 37 C.F.R. § 1.704 (92 days), which gave rise to the April 7, 2008 Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) that indicated a PTA of 302 days. However, Patentees disagree with the Office's failure to credit 228 days of PTA for the delayed issuance of the patent pursuant to 35 U.S.C. § 154(b)(1)(B), presumably based on an implicit finding that the delay under 35 U.S.C. § 154(b)(1)(B) overlaps with the 394 day delay under 35 U.S.C. § 154(b)(1)(A).

In view of the *Wyeth* decision, it is clear that delays under 35 U.S.C. § 154(b)(1)(B) (and therefore under 37 C.F.R. §§ 1.702(b) and 1.703(b)) do not begin until the PTO has failed to issue a patent within three years, subject to the exclusions of 35 U.S.C. § 154(b)(1)(B)(i)-(iii). In the instant case, the period of adjustment under 37 C.F.R. § 1.703(a), ending with the April 30, 2007 mailing of the office action, clearly does not overlap with the period of adjustment under 37 C.F.R. § 1.703(b), beginning on February 2, 2008. Accordingly, Patentees are entitled to the period of adjustment under both 37 C.F.R. § 1.703(a) and 37 C.F.R. § 1.703(b), rather than the larger period under 37 C.F.R. § 1.703(a) as currently calculated. As such, Patentees are entitled to an additional 228 days of PTA for the period of delay under 37 C.F.R. § 1.703(b), such that the total correct PTA for U.S. Patent No. 7,425,622 is 530 days.

Accordingly, Applicants respectfully request that the PTA for the instant application be reconsidered and corrected in light of the facts and arguments above. If any further information is required, please contact the undersigned at the number listed below. Please charge any additional fees due in connection with the filing of this paper, or credit any overpayment, to Deposit Account No. 08-3425.

Dated: November 16, 2008

Respectfully submitted,

/Mark J. Hyman/

Mark J. Hyman
Registration No.: 46,789
HUMAN GENOME SCIENCES, INC.
Intellectual Property Dept.
14200 Shady Grove Road
Rockville, Maryland 20850
(240) 314-1224

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MAR 09 2010

OFFICE OF PETITIONS

HUMAN GENOME SCIENCES INC.
INTELLECTUAL PROPERTY DEPT.
14200 SHADY GROVE ROAD
ROCKVILLE MD 20850

In re Patent No. 7,425,622
Issued: September 16, 2008
Application No. 11/046,857
Filed: February 1, 2005
Attorney Docket No. PF588P1

: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the RESPONSE TO DECISION ON APPLICATION FOR PATENT TERM ADJUSTMENT AND REQUEST FOR RECONSIDERATION filed on August 21, 2009, requesting that the patent term adjustment be corrected from 302 to 530 days. The Office is construing this request as a request under 1.181 to invoke supervisory authority of the Director and is filed within the two month time period pursuant to 37 CFR 1.181(f).

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is adjusted by one five hundred thirty (530) days is **GRANTED**.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred thirty (530)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,425,622 B2

DATED : September 16, 2008

INVENTOR(S) : Craig A. Rosen

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 (302) days

Delete the phrase "by 302 days" and insert – by 530 days--

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

VOLENTINE & WHITT PLLC
ONE FREEDOM SQUARE
11951 FREEDOM DRIVE SUITE 1260
RESTON VA 20190

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JUN 09 2008

In re Application of	:	
Seok-Jun Won et al.	:	
Application No. 11/046,873	:	DECISION ON PETITION
Filed: February 1, 2005	:	PURSUANT TO
Attorney Docket No.: SEC.1290	:	37 C.F.R. § 1.181
Title: SUBSTRATE HAVING	:	
CATALYST LAYER THEREON AND	:	
METHOD OF CLEANING REACTION	:	
CHAMBER USING THE SAME	:	

This is a decision on the petition filed September 26, 2007, pursuant to 37 C.F.R. § 1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

It is noted in passing that the title that appears on this petition matches neither the title that appears in Office records, nor the title that appears on the specification as filed.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action, mailed January 17, 2007, which set a shortened statutory period for reply of 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 April 18, 2007. A notice of abandonment was mailed on September 21, 2007.

With this petition, Petitioner has asserted that a response was submitted to the Office on April 5, 2007. Petitioner has submitted a copy of this response, and it is noted that it fails to contain a certificate of mailing, however it is dated April 5, 2007. Petitioner has also provided a date-stamped copy of a postcard receipt that evinces the receipt of both an "amendment transmittal letter" and an "amendment" in the Office on April 5, 2007.

Moreover, it is noted that this response has been located in the electronic file. However the copy that appears in the electronic file contains a stamp from the Office of Initial Patent Examination (OIPE) dated March 5, 2007.

It appears that this response was timely received in the Office on April 5, 2007 and OIPE placed the incorrect date on the submission.

Considering the facts and circumstances of the delay at issue, as set forth on petition, it is concluded that Petitioner has met his burden of establishing that a response was timely submitted.

Accordingly, the petition under 37 C.F.R. § 1.181(a) is **GRANTED**. The holding of abandonment is **WITHDRAWN**.

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the response to the non-final Office action of April 5, 2007 can be processed.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival or 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[1]. All other inquiries

1 Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

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written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).

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Merek, Blackmon and Voorhees, LLC
673 South Washington St.
Washington, VA 22314

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JUN 0 6 2005

OFFICE OF PETITIONS

In re Application of :
Greg Alan Tilley :
Application No. 11/046,884 :
Filed: February 1, 2005 : ON PETITION
For: PORTABLE MULTI-FUNCTION :
SYSTEM FOR TESTING PROTECTIVE :
DEVICES :

This is a decision on the Petition, filed May 4, 2005, requesting the above-identified application be accorded a filing date of February 1, 2005, including drawing Figures 1-16 described in the specification.

The application was filed on February 1, 2005. On April 27, 2005, the Office of Initial Patent Examination mailed a Notice of Omitted Item(s) in a Nonprovisional Application (hereinafter "Notice") stating that the application had been accorded a filing date; however, Figures 1-16 described in the specification appeared to have been omitted from the application.

Applicant responds with the instant petition wherein Applicant avers that drawing Figures 1-16 described in the specification were included among 25 drawing sheets originally filed with the application on February 1, 2005, and were received by this Office as evidenced by the return-receipt postcard. In support of this assertion, Applicant provides a copy of two return-receipt postcard, each acknowledging receipt of, *inter alia*, 25 drawing sheets in the above-identified application by this Office on February 1, 2005.

A review of the return-receipt postcards reveal that Applicant is correct. The postcards acknowledges receipt of, *inter alia*, 25 drawing sheets in the above-identified application by this Office on February 1, 2005.

"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 drawing sheets 1-16, filed with the instant petition on May 4, 2005, will be used for examination purposes.

The petition fee, $400.00, has been refunded to deposit account 50-0562 as authorized in the instant petition.

The application will be returned to the Office of Initial Patent Examination for further processing with a filing date of February 1, 2005, and an indication that 25 drawing sheets were present on filing, including pages 1-16, using pages 1-16 of drawings filed with the instant petition on May 4, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Petitions Attorney
Office of Petitions

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James Klekotka
Suite 10
4350 W. Chandler Blvd.
Chandler AZ 85226

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DEC 17 2007

OFFICE OF PETITIONS

In re Application of
Yamashita, et al.
Application No. 11/046,903
Filed: February 1, 2005
Attorney Docket No. 071469-0314481 (FKL-032)

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned September 1, 2007 for failure to timely file a proper reply to the Notice of Allowance (Notice) mailed May 31, 2007. The Notice set at three month statutory period of time for reply. Notice of Abandonment was mailed October 2, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the issue fee payment (submitted September 28, 2007), (2) the required petition fee, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

This application is being referred to the Office of Patent Publications for further processing.

Alesia M. Brown
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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TAYLOR & AUST, P.C.
P.O. BOX 560
142. S. MAIN STREET
AVILLA, IN 46710

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MAY 07 2009

OFFICE OF PETITIONS

In re Application of :
Daniel A. **SCHOCH, et al.** :
Application No. 11/046,961 :
Filed: January 31, 2005 :
Attorney Docket No. **M-193-CON** :

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 17, 2009, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment, mailed November 18, 2005 , which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 19, 2005.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. *See* MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

(1) the delay in reply that originally resulted in the abandonment;

(2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and

(3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of $500 or a fee of $50 **would not be granted where the abandonment** or the failure to pay the fee for issuing the patent **was intentional** as opposed to being unintentional or unavoidable." [emphasis added]. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), *reprinted in* 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). *See* In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (over 3 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was

unintentional. Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on December 19, 2005. 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 Mr. Randall J. Knuth of Randall J. Knuth, PC was acting as counsel of record at the time of abandonment, Mr. Knuth should explain why this application became abandoned while it was under his control and what efforts were made to further reply of itself and with whom this matter was discussed outside of Randall J. Knuth PC, IN. 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), Mr. Knuth and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons then at Randall J. Knuth PC, IN, 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 fo 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 3 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as opposed to USPTO acceptance of a general allegation of unintentional delay. *See* Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons then at Randall J. Knuth, PC and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

> (A) the date that the applicant first became aware of the abandonment of the application; and
> (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. *See also* New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S.District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

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 Monica A. Graves at (571) 272-7253.

Brian W. Brown
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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BAKER & DANIELS LLP
111 E. WAYNE STREET
SUITE 800
FORT WAYNE, IN 46802

Mail Date: 04/21/2010

Applicant	: Nelik I. Dreiman	: DECISION ON REQUEST FOR
Patent Number	: 7604466	: RECALCULATION of PATENT
Issue Date	: 10/20/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/046,969	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **146** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : June 17, 2008

TO SPE OF : ART UNIT 1624

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/046993 Patent No.: 7326705 B2

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within **7** days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code **COCX**.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

SPE

1624
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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ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

COPY MAILED
SEP 0 2 2005
OFFICE OF PETITIONS

In re Application of :
Edmund S. Schindler et al. :
Application No. 11/047,000 : DECISION ACCORDING STATUS
Filed: January 31, 2005 : UNDER 37 CFR 1.47(a)
Attorney Docket No. 04283-P0002A :

This is in response to the petition filed August 10, 2005 (certificate of mail date, August 8, 2005) under 37 CFR 1.47(a).

The petition is **GRANTED**.

The above-identified application was filed on January 31, 2005, naming Edmund S. Schindler, Lawrence D. Berg, Nigel John Garrad, John Joseph Halloran and Robert J. Collette as joint inventors but without a signed declaration. Accordingly, on March 8, 2005, a "Notice To File Missing Parts of Application" was mailed, requiring *inter alia* a properly executed oath or declaration.

In response, an oath or declaration executed by joint inventors Schindler, Halloran and Collette, a petition under 37 CFR 1.47(a) and request for two month extension of time was filed. The petition argues that joint inventors Berg and Garrad refuse to sign the oath or declaration and thus by their actions, to cooperate with the filing of the instant application.

It should be noted that the Notice mailed March 8, 2005 set a two month period for response. Thus, to make the response timely, a three month extension of time should have been filed. Therein, petitioner's deposit account has been charged in the amount of $285.00 to make up the difference between the fees paid for a two month extension of time ($225.00) and that which was due ($510.00). As well, petitioner should be advised that effective November 22, 2004, the petition fee has been increased to $200.00. Therein, deposit account no. 19-4516 has been charged in the amount of $70.00 to make up the difference between that which was paid and that which is due pursuant to 37 CFR 1.17(g). See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004.

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known address of the non-signing inventor.

The petition bears proof that the application papers were sent to both Mr. Berg and Mr. Garrad and that neither has returned an executed oath or declaration. Further, the petitioners have shown that they have followed up with each of the non-signing inventors and that again, neither has responded with an executed oath or declaration.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). In view thereof, this application is hereby accorded Rule 1.47(a) status.

Thus, as provided in Rule 1.47c, this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This matter is being referred to the Office of Initial Patent Examination for further pre-examination processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

LAWRENCE D. BERG
8251 SOUTH SANDUSKY AVENUE
TULSA, OK 74137

NIGEL JOHN GARRAD
OAKWING HOUSE
SWAN LANE
WINCHESTER, SO23 7AA
UNITED KINGDOM

COPY MAILED

SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of
Edmund S. Schindler et al.
Application No. 11/047,000
Filed: January 31, 2005
For: FUEL STAGING METHODS FOR LOW NOX TANGENTIAL FIRED BOILER OPERATION

Dear Mr. Berg and Mr. Garrad:

You are named as joint inventors in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

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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LAWRENCE D. BERG
8251 SOUTH SANDUSKY AVENUE
TULSA, OK 74137

NIGEL JOHN GARRAD
OAKWING HOUSE
SWAN LANE
WINCHESTER, SO23 7AA
UNITED KINGDOM

COPY MAILED

SEP 0 2 2005

OFFICE OF PETITIONS

In re Application of
Edmund S. Schindler et al.
Application No. 11/047,000
Filed: January 31, 2005
For: FUEL STAGING METHODS FOR LOW NOX TANGENTIAL FIRED BOILER OPERATION

Dear Mr. Berg and Mr. Garrad:

You are named as joint inventors in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as joint inventors.

As named inventors you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned Petitions Attorney at (571) 272-3212. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

cc:
ST. ONGE STEWARD JOHNSTON & REENS, LLC
986 BEDFORD STREET
STAMFORD CT 06905-5619

UNITED STATES PATENT AND TRADEMARK OFFICE

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YAHOO C/O MOFO PALO ALTO
755 PAGE MILL ROAD
PALO ALTO, CA 94304

MAILED

MAY 10 2010

OFFICE OF PETITIONS

In re Application of
Ashish Ashtekar et al.
Application No. 11/047,010
Filed: January 31, 2005
Attorney Docket No. **324212004100**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed March 18, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 76102 has been revoked by the applicants of the patent application on April 30, 2010. 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.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

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SEP 23 2005

OFFICE OF PETITIONS

In re Application of :
Nippoldt, Clague and Ericson :
Application No. 11/047,026 : DECISION ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. P-11140.01 :
Title: BLOOD COAGULATION TEST :
CARTRIDGE, SYSTEM, AND METHOD :

This is in response to the petition under 37 CFR 1.47(a), filed July 27, 2005 (certificate of mailing dated Monday, July 25, 2005).

The petition under 37 CFR 1.47(a) is **DISMISSED**.

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 address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor(s). **Failure to respond will result in abandonment of the application**. Any extensions of time will be governed by 37 CFR 1.136(a). No additional petition fee is required for filing a Request for Reconsideration.

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 present petition does not satisfy requirement (2).

As to requirement (2), applicant failed to submit an oath or declaration in compliance with 37 CFR 1.63 and 1.64. The declaration is not acceptable because the alteration to the residence of Douglas D. Nippoldt is not **initialed and dated.**[1] The Office notes that it is "improper for anyone, including

[1] "Any interlineation, erasure, cancellation or other alteration of the application papers...should be dated and initialed or signed by the applicant on the same sheet of paper." 37 CFR 1.52(c)(1).

counsel, to alter, rewrite, or partly fill in any part of the application, including the oath or declaration, after execution of the oath or declaration by the applicant.[2] Furthermore, the Office "will not consider whether noninitialed and/or nondated alterations were made before or after signing of the oath or declaration but will require a new oath or declaration."[3]

Pursuant to Section 603 of the Manual of Examining Procedure:

> Deficiencies or inaccuracies in an oath or declaration may be corrected by a supplemental oath or declaration. The supplemental oath or declaration must (1) identify the entire inventive entity, and (2) be signed by all the inventors when the correction relates to all the inventors or applicants (37 CFR 1.42, 1.43, or 1.47), **or by only those inventor(s) or applicants (37 CFR 1.42, 1.43, or 1.47) to whom the corrections relates.** See 37 CFR 1.67(a). A deficiency or inaccuracy relating to information required by 37 CFR 1.63(c) may also be corrected with an application data sheet (37 CFR 1.67(a)(3)).

On renewed petition, applicant must correct the residence of inventor Nippoldt by submitting either a supplemental declaration identifying the entire inventive entity and signed by inventor Nippoldt alone, or an application data sheet under 37 CFR 1.76 containing only a change in inventor Nippoldt's residence.

Further correspondence with respect to this matter should be addressed as follows and **to the attention of Christina Tartera Donnell, Senior Petitions Attorney**:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

---

[2] MPEP 605.04(a)(I).

[3] Id.

UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

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OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Nippoldt, Clague and Ericson :
Application No. 11/047,026 : DECISION ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. P-11140.01 :
Title: BLOOD COAGULATION TEST :
CARTRIDGE, SYSTEM, AND METHOD :

This is in response to the renewed petition under 37 CFR 1.47(a), filed October 13, 2005.

The petition under 37 CFR 1.47(a) is **granted**.

Petitioner showed that Daniel G. Ericson, the non-signing inventor, refused to join in the filing of the above-identified application after having been mailed the application papers. Specifically, the statement of facts of Jeffrey J. Hohenshell established that Mr. Hohenshell mailed the application papers to the non-signing inventor's legal representative; however, the non-signing inventor did not respond to the request to sign the declaration. Copies of the letters to the legal representative accompanied the original petition.

The above-identified application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status. As provided in Rule 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the present petition. Notice of the filing of this application will also be published in the Official Gazette.

The matter is being referred to Technology Center Art Unit 1743 for examination in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3211.

Christina T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Daniel G. Ericson
1423 Bell Oaks Lane, SW
Rochester, MN 55902

COPY MAILED

OCT 21 2005

OFFICE OF PETITIONS

In re Application of :
Nippoldt, Clague and Ericson :
Application No. 11/047,026 : DECISION ON PETITION
Filed: January 31, 2005 :
Attorney Docket No. P-11140.01 :
Title: BLOOD COAGULATION TEST :
CARTRIDGE, SYSTEM, AND METHOD :

Dear Mr. Ericson:

You are named as a joint inventor in the above-identified United States patent application filed under the provisions of 35 U.S.C. 116 (United States Code) and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (703) 308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

Christina T. Donnell
Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

MEDTRONIC, INC.
710 MEDTRONIC PARKWAY NE
MS-LC340
MINNEAPOLIS MN 55432-5604

UNITED STATES PATENT AND TRADEMARK OFFICE

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MITCHELL J. WEINSTEIN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO, IL 60606-3945

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DEC 13 2007

OFFICE OF PETITIONS

In re Application of	:	
Skoufis, John	:	
Application No. 11/047,035	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 14730.99 (35371-63717)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Election, (2) the petition fee, and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center 2627 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions

Cc:

LEVENFELD PEARLSTEIN
2 N. LASALLE STREET
SUITE 1300
CHICAGO, IL 60602

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
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HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

Mail Date: 04/20/2010

Applicant	: Peter Bosch	: DECISION ON REQUEST FOR
Patent Number	: 7580385	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,038	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **817** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

JUN 18 2010

OFFICE OF PETITIONS

In re Application of	:	
HIESHIMA, GRANT	:	
Application No. 11/047,053	:	ON APPLICATION FOR
Filed: 01/31/2005	:	PATENT TERM ADJUSTMENT
Atty. Docket No. CRD1033USDIV1	:	

This is in response to the "APPLICATIONS FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF THE NOTICE OF ALLOWANCE" filed February 18, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is at least one thousand thirty-three (1033) days, not six hundred fifty-six (656) 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]

---

[1] For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : February 2, 2009

TO SPE OF : ART UNIT 1647

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/047064 Patent No.: 7402304

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: _____

[signature]
SPE

1657
Art Unit

FEB 2 2 2005
PATENT & TRADEMARK OFFICE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
BRADLEY, et al.

Application No.: 11/047,067

Filed: January 31, 2005

For: GRAFTED MULTI-FUNCTIONAL OLEFIN COPOLYMER VI MODIFIERS AND USES THEREOF

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail on **February 17, 2005**, with sufficient postage in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Beth Earnest
Beth Earnest

PETITION TO MAKE SPECIAL

Mail Stop Petition
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. 1.102, Advancement of Examination, Applicants hereby petition the Commissioner to make special the above-referenced patent application. The granting of Applicants' petition is allowable and justified under 37 C.F.R. 1.102(c) because the invention claimed will materially enhance the quality of the environment by improving (i.e., reducing) emissions in vehicles having engines lubricated with oils containing the improved claimed dispersants. The invention provides a lubricated engine comprising an exhaust gas recirculation system, whereby exhaust gases comprising soot generated in the combustion in the engine of fuel contact a lubricating oil used to lubricate said engine, said oil containing the improved dispersant to significantly reduce the amount of oil thickening of the lubricating oil as compared to use of

PETITION GRANTED

William Krynski
Special Program Examiner
TC 1700

OCT 2 0 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

Delbert J. Barnard
P. O. Box 58888
Seattle, WA 98138

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SEP 2 5 2007

OFFICE OF PETITIONS

In re Application of

Raymond Keith Foster

Application No. 11/047,076

Filed: January 31, 2005

Attorney Docket No. Foster EA

: DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 4, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed February 21, 2007, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on May 22, 2007. A Notice of Abandonment was mailed on August 29, 2007.

The amendment filed September 4, 2007, is noted.

The application is being forwarded to Technology Center 3600, GAU 3651 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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	: Dusko Petrovski	: DECISION ON REQUEST FOR
Patent Number	: 7587901	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,077	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CESARI AND MCKENNA, LLP
88 BLACK FALCON AVENUE
BOSTON, MA 02210

Mail Date: 05/04/2010

Applicant	: Peter F. Corbett	: DECISION ON REQUEST FOR
Patent Number	: 7627715	: RECALCULATION of PATENT
Issue Date	: 12/01/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,079	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **730** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/047,089	01/31/2005	Peter Mardilovich	200408372-1	3217

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
WONG, EDNA

ART UNIT	PAPER NUMBER
1795	

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
02/07/2005 EHAILE1 00000072 082025 11047089
02 FC:1111 500.00 CR
03 FC:1201 1800.00 CR
04 FC:1202 4000.00 CR

FORM PET651G (Rev. 08/07)

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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

JUL 13 2009

OFFICE OF PETITIONS

In re Application	:
Nir Dotan et al.	:
Application No. 11/047,124	: DECISION ON APPLICATION
Filed: January 31, 2005	: FOR PATENT TERM ADJUSTMENT
Attorney Docket No. **25681-503**	:

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)" filed June 10, 2009. Applicant requests that the determination of patent term adjustment be corrected from one hundred ninety-one (191) days to six hundred eighty-seven (687) days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in Wyeth v. Dudas, No. 07-1492 (D.D.C. September 30, 2008).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, a decision is being **held in abeyance** until after the actual patent date. Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.703(b).

Applicant is given TWO (2) MONTHS from the issue date of the patent to file a written request for reconsideration of the patent term adjustment for Office failure to issue the patent within 3 years. A copy of this decision should accompany the request. Applicant may seek such consideration without payment of an additional fee. However, as to all other bases for seeking reconsideration of the patent term adjustment indicated in the patent, all requirements of § 1.705(d) must be met. Requests for reconsideration on other bases must be timely filed and must include payment of the required fee.

Rather than file the request for reconsideration of Patent Term Adjustment at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term pursuant to 37 CFR 1.705(d). The USPTO notes that it does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent and accordingly, the Office will consider any request for reconsideration of the

patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent.

Applicants specifically state that the patent issuing from the application is not subject to a terminal disclaimer.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

Kery A Fries

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Deputy Commissioner
for Examination Policy

Via EFS
Date of Deposit: June 10, 2009

Attorney Docket No.: 25681-503

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT :	Dotan *et al.*	CONFIRMATION NO. :	5741
SERIAL NUMBER :	11/047,124	EXAMINER :	Gerald R. Ewoldt
FILING DATE :	January 31, 2005	ART UNIT :	1644
FOR :	METHOD FOR DIAGNOSING MULTIPLE SCLEROSIS		

Mail Stop: Issue Fee
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)

Applicants request reconsideration of patent term adjustment for the above-referenced application. Also enclosed is the two-hundred dollar fee as required by 37 C.F.R. § 1.18(e).

Applicants received a Notice of Allowance and Fees Due from the U.S. Patent and Trademark Office, mailed on March 10, 2009, which stated that the Patent Term Adjustment under 35 U.S.C. 154(b) to date is 191 days. By this paper, Applicants hereby petition the U.S. Patent and Trademark Office for reconsideration of the patent term adjustment calculation to **687 days,** based on the facts provided herein. This Communication is submitted in view of Applicants' duty under 37 C.F.R. 1.765 as well as the decision by the U.S. District Court decision in Wyeth v. Dudas (D.D.C. 2008) on September 30, 2008.

This patent application was filed on January 31, 2005, and is therefore subject to the patent term adjustment procedures set forth in 37 C.F.R. §§ 1.702 to 1.705 for applications filed on or after May 29, 2000.

On March 7, 2005, the Office mailed a Notice to File Missing Parts of Non-Provisional Application.

On April 19, 2005, Applicants filed a Response to the Notice to File Missing Parts. This response was received by the Office within three-months of the mailing date of the action. Applicants note that while the Office recorded the filing date as April 18, 2005, Applicants

submit that the Response was filed on April 19, 2005, however, the Patent Term Adjustment calculation is not affected by correction of this error.

On June 19, 2007, the Office mailed a Restriction/Election-of-Species. The action was mailed 445 days after the fourteen month requirement for mailing of the first action after the date on which the application was filed under 35 U.S.C. §111(a). As shown in Exhibit A, the number of days of Patent Term Adjustment accounts for the 445 day Office delay.

On August 20, 2007, Applicants filed a Response to Election-of-Species/Restriction. This response was received by the Office within three-months of the mailing date of the action.

On October 3, 2007, Applicants filed a Supplemental Response to Election-of-Species/Restriction. Applicants note that while the Office recorded the filing date as October 1, 2007, Applicants submit that the Response was filed on October 3, 2007, however, the Patent Term Adjustment calculation is not affected by correction of this error.

On January 4, 2008, the Office mailed a Notice of Non-Responsive Amendment.

On February 1, 2008, Applicants filed a Response to the Non-Responsive Amendment, which was supplemental to the Response to Election-of-Species/Restriction filed on August 20, 2007. As shown in Exhibit A, the number of days of Patent Term Adjustment accounts for the 165 day delay by Applicants.

On May 28, 2008, the Office mailed a Non-Final Office Action.

On November 25, 2008, Applicants filed a Response to the Non-Final Office Action with a three-month extension of time. As shown in Exhibit A, the number of days of Patent Term Adjustment accounts for the 89 day delay by Applicants.

On March 10, 2009, the Office mailed the Notice of Allowance /Notice of Allowability, and the Determination of Patent Term Adjustment for this application. The Determination of Patent Term Adjustment noted an adjustment period for this patent application of 191 days. As indicated in Exhibit A, the Office delay for this application is indicated as 445 days and Applicants' delay is 254 days.

According to the provisions of 37 C.F.R. §1.702(b), Applicants are also entitled to Patent Term Adjustment for the failure of the Office to issue the patent within three years after the date on which the application was filed. Applicants are entitled to this adjustment because none of the provisions described in 37 C.F.R. §1.702(b)(1)-(5) apply in the instant application. The amount of the Adjustment will depend on the date that the instant application is issued as a patent

and should be counted from February 1, 2008 (*i.e.*, the day after the date that is three years from the date that the application was filed), subtracting only time legitimately attributable to applicant delay after the period for reply to the Issue Fee Notification sent concurrently with the Notice of Allowance of March 10, 2009.

Applicants have calculated the Patent Term Adjustment based on 37 C.F.R. 1.702(a), 37 C.F.R. 1.702(b) and 37 C.F.R. 1.704 through the payment of the Issue Fee submitted herewith. Applicants submit that an additional 496 days of Office delay should be included, under 37 C.F.R. 1.702(b), in calculating the total Patent Term Adjustment. Accordingly, the total calculation of Patent Term Adjustment is as follows: Office delay: 445+496 = 941 days; Applicant delay: 165+89 = 254 days; adjustment: 941-254 = 687 days.

Applicants respectfully request that the Patent Term Adjustment be increased from 191 days, as reported on the Determination of Patent Term Adjustment under 35 U.S.C. 154 (b), to 687 days.

Applicants reserve the right to request any further patent term adjustment based on the actual issue date of the instant application.

In addition to the foregoing, a Terminal Disclaimer was filed on November 25, 2008 directed to U.S. Application No. 11/345,190.

If the Office would like to discuss any aspect of this filing, the Office representative assigned to process this request is welcome to call the undersigned attorneys. No additional fees are believed to be due by submission of this paper. However, the Office is authorized to charge such fee, or credit any overpayment in fees to Deposit Account No. **50-0311**, Customer Number **30623**, Attorney Docket No. 25681-503.

Respectfully submitted,

IABeattie

Ingrid A. Beattie, Reg. No. 42,306
Attorneys for Applicants
c/o MINTZ, LEVIN
Tel: (617) 542-6000
Fax: (617) 542-2241
Customer No.: 30623

Date: June 10, 2009

4636930v.1

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ONE FINANCIAL CENTER
BOSTON MA 02111

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MAR 15 2010

In re Patent No. 7,572,592	: DECISION ON REQUEST
Issued: August 11, 2009	: FOR RECONSIDERATION
Application No. 11/047,124	: OF PATENT TERM ADJUSTMENT
Filed: January 31, 2005	: AND
Attorney Docket No. 25681-503F01US	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on October 5, 2009, requesting that the patent term adjustment be corrected from 304 to 749 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 adjusted by seven hundred forty-nine (749) days is **GRANTED**.

The Office acknowledges submission of the $200.00 fee set forth in 37 CFR 1.18(e) paid with the petition filed June 10, 2009. 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 **seven hundred forty-nine (749)** days.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

/Kery A. Fries/

Kery A. Fries
Senior Legal Advisor
Office of Patent Legal Administration
Office of Associate Commissioner
for Patent Examination Policy

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,572,592 B2

DATED : August 11, 2009

INVENTOR(S) : Nir Dotan

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 (304) days

Delete the phrase "by 304 days" and insert – by 749 days--

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of	:	
Ashish Ashtekar et al.	:	
Application No. 11/047,140	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. **324212004000**	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed March 18, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 76102 has been revoked by the applicants of the patent application on April 30, 2010. 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.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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Commissioner for Patents
United States Patent and Trademark Office
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Rick D. Nydegger
WORKMAN, NYDEGGER & SEELEY
1000 Eagle Gate Tower
60 East South Temple
Salt Lake City UT 84111

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NOV 20 2006

OFFICE OF PETITIONS

In re Application of :
Allred et al. :
Application No. 11/047,150 :
Filed: January 31, 2005 :
Title: Dental Tray System with Releasable Hold :
Inner and Outer Dental Trays

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed September 26, 2006.

The petition to withdraw the holding of abandonment is **GRANTED**.

This application became abandoned for failure to timely submit a response to the non-final Office Action mailed February 8, 2006. The Notice set an extendable three month period for reply. No extensions of time pursuant to 37 CFR 1.136(a) were obtained. Accordingly, this application was held abandoned on May 9, 2006. A Notice of Abandonment was mailed on September 12, 2006.

Petitioner asserts that the non- final Office Action mailed on February 8, 2006 was never received. Petitioner attest that the Office Action was never received. Petitioner states a review of the Electronic File System for the above-identified application shows that the Office Action was returned to the Office due to " Insufficient Address Mail Processing".

A review of the record confirms that the Office action mailed on February 8, 2006 was returned due to insufficient address.

This application is being forwarded to Art Unit 3732 for re-mailing of the Office Action. The three month extendable time period for reply will be set to run from the mailing date of the re-mailed Office Action.

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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Alexandria, VA 22313-1450
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Pandiscio & Pandiscio
470 Totten Pond Road
Waltham, MA 02451

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OFFICE OF PETITIONS

In re Application of :
Vincent P. Novak :
Application No. 11/047,159 :
Filed: January 31, 2005 :
Attorney Docket No. NOVAK-0102031 :

DECISION GRANTING PETITION

This is a decision on the petition filed June 15, 2005 (certificate of mailing dated June 13, 2005), to vacate the language in the "Notice to File Missing Parts of Nonprovisional Application" (the "Notice") relative to the alleged omitted figures.

The petition is **granted**.

On January 31, 2005, the above-identified application was filed. However, on April 12, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had been accorded a filing date of January 31, 2005, and advising applicant that Figures 59, 60, 117, 118, and 121 through 128 as described in the specification appeared to have been omitted. Relative to the alleged omitted item, the notice set a non-extendable period for reply two-month period for reply.

In response, on June 15, 2005, applicant filed the present petition, a copy of the alleged omitted figures, and an Office date-stamped postcard receipt acknowledging receipt of 80 sheets of the drawings, among other items.

Upon review of the record, the alleged omitted figures were not located among the application papers. However, the evidence is convincing that the application papers deposited January 31, 2005, included Figures 59, 60, 117, 118, and 121 through 128, which was subsequently misplaced by the Office. Therefore, the application, including Figures 59, 60, 117, 118, and 121 through 128, was complete on filing and entitled to the presently accorded filing date of January 31, 2005, with Figures 59, 60, 117, 118, and 121 through 128 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 31, 2005, using the 80 sheets of drawings filed on that date.

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MAY 10 2010

OFFICE OF PETITIONS

In re Application of Ashish Ashtekar et al. Application No. 11/047,182 Filed: January 31, 2005 Attorney Docket No. **324212004200**	DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR. § 1.36(b), filed March 18, 2010.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to attorneys/agents associated with Customer Number 76102 has been revoked by the applicants of the patent application on April 230, 2010. 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.

Telephone inquires concerning this decision should be directed to the undersigned at 571-272-4584.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions

cc: YAHOO! INC. C/O GREENBERG TRAURIG, LLP
MET LIFE BUILDING
200 PARK AVENUE
NEW YORK NY 10166

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United States Patent and Trademark Office
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www.uspto.gov

Anna M. Shih
26201 Northwestern Hwy
P.O. Box 766
Southfield, MI 48037

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JUL 0 6 2006

OFFICE OF PETITIONS

In re Application of Walkowski :
Application No. 11/047,201 :
Filing Date: January 31, 2005 :
Attorney Docket No. 04-ASD-215 (GT) :

Decision on Petition

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2006, to revive the above-identified application.

The petition is **dismissed**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance mailed November 4, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 5, 2006. A Notice of Abandonment was mailed on April 13, 2006.

The instant petition requests revival of the application.

As stated on the Notice of Allowance, the form PTOL-85B must be submitted with payment of the issue fee. A copy of the form is supplied. Petitioner should complete the form and submit the form with any request for reconsideration.

A review of the specification has revealed that paragraph [0019] states in part, "such as the cover described in U.S. Appln. No. [Attorney Docket No. 04 ASD 253 (GT)]." Petitioner may wish to file an amendment to insert the missing application number.

Any request for reconsideration must be submitted within TWO (2) MONTHS from the mail date of this decision. No further petition fee is required for the request. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)."

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile: (571) 273-8300
Attn: Office of Petitions

By hand: U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

Attached: PTOL-85B Form

PART B - FEE(S) TRANSMITTAL

Complete and send this form, together with applicable fee(s), to: Mail **Mail Stop ISSUE FEE**
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450
or Fax (571) 273-2885

INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

7590 11/04/2005

Anna M. Shih
26201 Northwestern Hwy
P.O. Box 766
Southfield, MI 48037

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

Certificate of Mailing or Transmission
I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/047,201	01/31/2005	Paul D. Walkowski	04-ASD-215 (GT)	8834

TITLE OF INVENTION: DOOR LATCH FOR CAPLESS FILLER NECK

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	$1400	$300	$1700	02/06/2006

EXAMINER	ART UNIT	CLASS-SUBCLASS
DOUGLAS, STEVEN O	3751	141-350000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).
- ☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.
- ☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a Customer Number is required.

2. For printing on the patent front page, list
(1) the names of up to 3 registered patent attorneys or agents OR, alternatively,
(2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed.
1 _____
2 _____
3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)
PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE (B) RESIDENCE: (CITY and STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are enclosed:
- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s):
- ☐ A check in the amount of the fee(s) is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized by charge the required fee(s), 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).

The Director of the USPTO is requested to apply the Issue Fee and Publication Fee (if any) or to re-apply any previously paid issue fee to the application identified above.
NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

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Anna M. Shih
26201 Northwestern Hwy
P.O. Box 766
Southfield, MI 48037

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OFFICE OF PETITIONS

In re Application of Walkowski :
Application No. 11/047,201 : Decision on Petition
Filing Date: January 31, 2005 :
Attorney Docket No. 04-ASD-215 (GT) :

This is a decision on the petition under 37 CFR 1.137(b), filed July 14, 2006, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to timely reply to the Notice of Allowance mailed November 4, 2005, which set a statutory period for reply of three (3) months. Accordingly, the above-identified application became abandoned on February 5, 2006. A Notice of Abandonment was mailed on April 13, 2006.

The instant petition requests revival of the application.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Therefore, the petition is granted and the application is revived.

The Office of Publications will be informed of the instant decision and the application will be issued as a patent in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

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THOMTE, MAZOUR & NIEBERGALL, L.L.C.
2120 S. 72ND STREET, SUITE 1111
OMAHA NE 68124

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MAY 0 6 2005

OFFICE OF PETITIONS

In re Application of
Jerry L. Scheer
Application No. 11/047,202
Filed: January 31, 2005
Title of Invention: RAILROAD YARD SWITCH MACHINE

ON PETITION

This is a decision on the petition filed March 21, 2005, in response to the Notice of Omitted Items, which is treated under 37 CFR 1.182.

A "Notice of Omitted Items in a Nonprovisional Application" was mailed March 9, 2005, indicating that the application had been accorded a filing date of January 31, 2005 but that Figure 7 described in the specification appeared to have been omitted. Petitioner asserts that the paper containing Figures 5a-d was among the papers filed on January 31, 2005, and with the petition, submits, *inter alia*, a "legible" postcard receipt in evidence thereof. A review of the official file reveals that only ten (10) sheets of drawings are accounted for. However, the postcard receipt, identifies the application and acknowledges, inter alia, the number of drawing sheets to be eleven (11), Figures 1-11, and bears a United States Patent and Trademark Office date-stamp of January 31, 2005. Further, the postcard receipt lacks any notation of non-receipt of any item listed.

In view of the foregoing, the petition is **GRANTED.** The "Notice" was improperly mailed and is withdrawn.

Given the basis for granting the petition, no petition fees are due and none have been charged.

This matter is being referred to the Office of Initial Patent Examination (OIPE) for further processing, using the application papers received in the Office on January 31, 2005 and the one drawing sheet containing Figure 7, submitted on petition March 21, 2005.

Telephone inquiries regarding this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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OFFICE OF PETITIONS

Timothy B. Smith
Suite 1300
185 South State Street
Salt Lake City UT 84111

In re Application of	:	
Dennis H. Hancock	:	
Application No. 11/047,219	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 103680-4	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 14, 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 July 3, 2006, as required by the Notice of Allowance and Fee(s) Due, mailed April 3, 2006. Accordingly, the date of abandonment of this application is July 4, 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 $1,400.00 and publication fee of $300.00, (2) the petition fee of $1,500.00; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Christopher Bottorff at (571) 272-6052 or in his absence, the undersigned at (571) 272-7099.

This application is being referred to Publishing Division for processing into a patent.

David Bucci
Petitions Examiner
Office of Petitions

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OSTROLENK FABER BERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK NY 10036-8403

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OFFICE OF PETITIONS

In re Application of	:
Naoki Hasegawa	:
Application No. 11/047,244	: DECISION ON PETITIONS
Filed: January 31, 2005	: UNDER 37 CFR 1.55(C)
Attorney Docket No. P/1909-174	:

This is a decision on the petition under 37 CFR 1.55(c), filed May 15, 2009, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign Application No. JP 2004-020967, filed January 29, 2004.

The petition under 37 CFR 1.55(c) is **DISMISSED** as moot.

The instant pending nonprovisional application was filed on January 31, 2005, and was pending at the time of filing of the instant petition. A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

(1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;

(2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6);

(3) the surcharge as set forth in 37 CFR 1.17(t);

(4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional. (The Commissioner may require additional information where there is a question whether the delay was unintentional.); and

(5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

However, a review of the USPTO application file reveals that the claim under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign Application No. JP 2004-020967, filed January 29, 2004, was timely submitted upon filing of the instant application on January 31, 2005. Accordingly, the petition under 37 CFR 1.55(c) is hereby dismissed as involving a moot issue.

In view of the above, the $1410.00 petition fee submitted is unnecessary and will be refunded to petitioner's credit card in due course.

A corrected Filing Receipt, which includes the priority claim to the prior-filed foreign application, accompanies this decision on petition.

This matter is being referred to Technology Center AU 1791 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 questions concerning this matter may be directed to Joan Olszewski at (571) 272-7751.

/Liana Walsh/
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
11/047,244	01/31/2005	2419	1000	P/1909-174	20	3

CONFIRMATION NO. 3638

CORRECTED FILING RECEIPT

2352
OSTROLENK FABER GERB & SOFFEN
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 100368403

OC000000037234900

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)

Naoki Hasegawa, Tokyo, JAPAN;

Power of Attorney:

Marvin Soffen--17542
Samuel Weiner--18510
Stanley Lieberstein--22400
Robert Faber--24322
Edward Meilman--24735
Steven Weisburd--27409
Max Moskowitz--30576
Louis Dujmich--30625

Domestic Priority data as claimed by applicant

Foreign Applications

JAPAN 2004-020967 01/29/2004

If Required, Foreign Filing License Granted: 03/16/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/047,244**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Half-duplex radio communication method, program and system thereof

Preliminary Class

370

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OCT 18 2007

OFFICE OF PETITIONS

In re Application of	:	
George T. C. Li et al	:	
Application No. 11/047,248	:	DECISION GRANTING PETITION
Filed: January 29, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. P-0001I	:	

This is a decision on the petition under 37 CFR 1.137(b), filed May 3, 2007 and supplemented on June 21, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of the issue and publication fee; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Notice of Allowance of December 14, 2006., is accepted as having been unintentionally delayed.

Petitioner should be aware that Part B Issue Fee Transmittal submitted on May 3, 2007 and June 21, 2007(copy) is not signed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Patent Publication.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions

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FREDERICK W. GIBB, III
Gibb Intellectual Property Law Firm, LLC
844 West Street
SUITE 100
ANNAPOLIS, MD 21401

Mail Date: 04/20/2010

Applicant	: Jane E. Frommer	: DECISION ON REQUEST FOR
Patent Number	: 7579149	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,250	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **577** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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MILLS & ONELLO LLP
ELEVEN BEACON STREET
SUITE 605
BOSTON, MA 02108

Mail Date: 04/21/2010

Applicant	: Jae-Jin Park	: DECISION ON REQUEST FOR
Patent Number	: 7593468	: RECALCULATION of PATENT
Issue Date	: 09/22/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,255	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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COOLEY GODWARD KRONISH LLP
ATTN: PATENT GROUP
THE BOWEN BUILDING
875 15TH STREET, N.W. SUITE 800
WASHINGTON, DC 20005-2221

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OCT 18 2006

OFFICE OF PETITIONS

In re Application of	:	
ROCHE, et al.	:	
Application No. 11/047,256	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. AE2003-069	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) or 37 C.F.R. § 10.40 filed June 27, 2006.

The request is **NOT APPROVED**.

A review of the file record indicates that Sean R. O'Dowd does not have power of attorney in this patent application nor is there any statement or evidence of record of employment in or otherwise being engaged in the proceedings in this patent application. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) the intervening assignee of the entire interest. The change of address submitted on August 4, 2006 is also not acceptable because Larry Williams is not an attorney of record. See 37 CFR 1.33(a)(2).

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 Monica A. Graves at 571-272-7253.

David Bucci
Petitions Examiner
Office of Petitions

cc: **JOHN D. PIRNOT**
ADVANCED ENERGY INDUSTRIES, INC.
1625 SHARP POINT DR.
FORT COLLINS CO 80525

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OFFICE OF PETITIONS

THE FIRM OF HUESCHEN AND SAGE
SEVENTH FLOOR, KALAMAZOO BUILDING
107 WEST MICHIGAN AVENUE
KALAMAZOO MI 49007

In re Application of	:	
Michel Koch et al.	:	
Application No. 11/047,259	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. SERVIER 440	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before May 26, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 26, 2009. Accordingly, the date of abandonment of this application is May 27, 2009. A Notice of Abandonment was mailed on June 24, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

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

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS MN 55402

MAILED
APR 26 2010
OFFICE OF PETITIONS

In re Application of	:	
Kim Pallister	:	
Application No. 10/951,749	:	DECISION ON PETITION
Filed: September 27, 2004	:	
Attorney Docket No. 42P19893	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before January 6, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed February 1, 2010. Accordingly, the date of abandonment of this application is January 7, 2009. A Notice of Abandonment was mailed on February 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $1,510 and the publication fee of $300 and a RCE (Request for Continued Examination, with the required fee of $810, (2) the petition fee of $1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 2624 for processing of the RCE and any action that is required by the Examiner in the normal course of business.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions

Doc Code: PET.OP
Document Description: Petition for Review by the Office of Petitions

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. 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) 42P19893

First named inventor: Kim Pallister

Application No.: 10/951,749 Art Unit: 2624

Filed: September 27, 2004 Examiner: Phuoc Tran

Title: LOW-LATENCY REMOTE DISPLAY RENDERING USING TILE-BASED RENDERING SYSTEMS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

FAX RECEIVED
FEB 16 2010
OFFICE OF PETITIONS

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 any 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)). Application 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 RCE, RCE fee, and IDS (identify type of reply):

☐ has been filed previously on _____.

☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.

☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

PTO/SB/64 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
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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.

/John A. Harroun/	February 16, 2010
Signature	Date
John A. Harroun	46,339
Type or Printed name	Registration Number, If applicable
Intel Corporation c/o CPA Global P.O. Box 52050	703-633-0926
Address	Telephone Number
Minneapolis, MN 55402.	
Address	

Enclosures:

☑ Fee Payment

☐ Reply

☐ Terminal Disclaimer Form

☐ Additional sheets containing statements establishing unintentional delay

☑ Other: Communication Re: Petition To Revive, RCE, IDS, NPL Reference

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.

February 16, 2010	/Jennifer Mundt/
Date	Signature
	Jennifer Mundt
	Typed or printed name of person signing certificate

S/N 10/951,749 **PATENT**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Kim Pallister Examiner: Phuoc Tran
Serial No.: 10/951,749 Group Art Unit: 2624
Filed: September 27, 2004 Docket: 42P19893
Title: LOW-LATENCY REMOTE DISPLAY RENDERING USING TILE-BASED RENDERING SYSTEMS

COMMUNICATION REGARDING PETITION TO REVIVE APPLICATION UNDER 37 CFR 1.137(b)

Petitions Office
P.O.Box 1450
Alexandria, VA 22313-1450

Applicant respectfully petitions for the revival of the above-identified patent application under 37 C.F.R. 1.137(b) as being unintentionally abandoned for failure to submit a reply to the Notice of Allowance mailed October 6, 2009 by the final deadline of January 6, 2010. The case was unintentionally abandoned.

Accompanying this Petition is a complete reply to the Notice of Allowance. This complete reply is a Request for Continued Examination (RCE) with a submission of an Information Disclosure Statement (IDS).

The entire delay in filing the required reply from the due date until the filing of this petition was unintentional.

The Commissioner is authorized to charge $1620.00 due under 37 CFR 1.17(m), as well as any other required fees, to deposit account no. 50-0221.

Respectfully submitted,
Customer Number: 59,796

Date February 16, 2010 By /John A. Harroun/
John A. Harroun
Reg. No. 46,339

The undersigned hereby certifies that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on this 16th day of February, 2010.

Jennifer Mundt /Jennifer Mundt/
Name Signature

PTO/SB/30 (07-09)
Approved for use through 07/31/2012. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Application Number	10/951,749
Filing Date	September 27, 2004
First Named Inventor	Kim Pallister
Art Unit	2624
Examiner Name	Tran, Phuoc
Attorney Docket Number	42P19893

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
   - a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
     - i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____
     - ii. ☐ Other _____
   - b. ☑ Enclosed
     - i. ☐ Amendment/Reply
     - ii. ☐ Affidavit(s)/ Declaration(s)
     - iii. ☑ Information Disclosure Statement (IDS)
     - iv. ☐ Other _____
2. **Miscellaneous**
   - a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
   - b. ☐ Other _____
3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
   - a. ☑ The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 50-0221.
     - i. ☑ RCE fee required under 37 CFR 1.17(e)
     - ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
     - iii. ☐ Other _____
   - b. ☐ Check in the amount of $ _____ enclosed
   - c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature	/John A. Harroun/	Date	February 16, 2010
Name (Print/Type)	John A. Harroun	Registration No.	46,339

CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Signature	/Jennifer Mundt/		
Name (Print/Type)	Jennifer Mundt	Date	February 16, 2010

This collection of information is required by 37 CFR 1.114. 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: **Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/29/09

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No.: 11047271 Patent No.: 7451885 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

x Approved — All changes apply.

❑ Approved in Part — Specify below which changes do not apply.

❑ Denied — State the reasons for denial below.

Comments: _____

/Anthony Stashick/ 3781

SPE Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 1/29/09

TO SPE OF : ART UNIT 3781

SUBJECT : Request for Certificate of Correction for Appl. No.: 11047271 Patent No.: 7451885 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 Director's/SPE response to 571-270-9990

Lamonte M. Newsome
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

x	**Approved**	All changes apply.
☐	**Approved in Part**	Specify below which changes **do not** apply.
☐	**Denied**	State the reasons for denial below.

Comments: _____

/Anthony Stashick/ 3781

SPE Art Unit

PTOL-306 (REV. 7/03) U.S. DEPARTMENT OF COMMERCE Patent and Trademark Office

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JONATHAN A. PLATT
RENNER, OTTO, BOISSELLE & SKLAR, LLP
NINETEENTH FLOOR
1621 EUCLID AVENUE
CLEVELAND OH 44115

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JUL 13 2005

OFFICE OF PETITIONS

In re Application of
Reza Mehrabi et al.
Application No. 11/047,300
Filed: January 31, 2005
Attorney Docket No.: AVERP3308USC

ON PETITION

This is a decision on the petition filed June 23, 2005, under 37 CFR 1.182, to change the order of the names of the inventors.

The petition is **GRANTED**.

Although the "without deceptive intent statement" was not included in the petition, the instant petition is being so construed. Petitioner **must** notify the Office if this is not a correct interpretation.

The order of the names of the inventors will be changed as follows:

1. Reza Mehrabi
2. Robert J. Fermin
3. Ali R. Mehrabi
4. David N. Edwards
5. Chunhwa Wang
6. Rishikesh K. Bharadwaj
7. Ronald F. Sieloff
8. Philip Yi Zhi Chu
9. Eng-Pi Chang
10. Hsiao Ken Chuang

A corrected filing receipt reflecting the correct order of the names of the inventors is attached.

It should be noted also that effective November 22, 2004, the petition fee was increased from $130.00 to $400.00. See the Notice published in the Federal Register on September 21, 2004 and in the Official Gazette of the United States Patent and Trademark Office on October 12, 2004. Per the authorization found on the transmittal submitted with the petition, deposit account no. 18-0988 has been charged in the amount of $270.00 to make up the difference between what was paid and what was due.

This matter is being referred to Technology Center 1732 for examination in due course.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

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

ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

Mail Date: 04/21/2010

Applicant	: Vincent A. Piucci	: DECISION ON REQUEST FOR
Patent Number	: 7621104	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,306	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1129** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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

MARIO RABINOWITZ
715 LAKEMEAD WAY
REDWOOD CITY, CA 94062

COPY MAILED

SEP 26 2005

OFFICE OF PETITIONS

In re Application of	:	
Mario Rabinowitz	:	
Application No. 11/047,320	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO MAKE SPECIAL
For: MICRO-OPTICS CONCENTRATOR FOR	:	37 CFR 1.102(c)
SOLAR POWER SATELLITIES	:	

This is a decision on the petition under 37 CFR 1.102(c), filed February 16, 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 **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c), MPEP § 708.02, Section VI: Energy, must be accompanied by a statement by the applicant, assignee, or an attorney/agent registered to practice before the Office explaining how the inventions materially contribute (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 petition has been reviewed and is found to be in compliance with the requirements for special status as set forth in Section 708.02(VI) of the MPEP. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquires concerning this decision should be directed to Wan Laymon at (571) 272-3220.

All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3644 for expedited prosecution.

David Bucci
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Ryan, Mason & Lewis, LLP
Suite 205
1300 Post Road
Fairfield CT 06824

5/15/09

In re Application of EWES, INGO et al Appl. No.: 11/047,328 Filed: Jan. 31, 2005 Attorney Docket No. 7-9-17 For: HEAT-TRANSFER DEVICES	DECISION ON PETITION Under 37 CFR 1.181 to Withdraw Prior Admission

This is a decision on the petition filed Jan. 26, 2009, pursuant to 37 C.F.R. § 1.181, requesting withdrawal of a prior admission statement that is contained in a response to a restriction requirement.

The petition is DISMISSED. The admission contained in the applicant's response to the restriction requirement filed on April 5, 2006 will not be withdrawn for the same reasons as stated in the previous decision mailed on August 14, 2008 in the parent application SN 10/946,571.

In the petition of January 26, 2009, petitioner requests that 1) the prior Applicant statement stating that the various species of the claimed invention are not patentably distinct be withdrawn; or 2) in the alternative, the admission is not controlling and the Examiner is free to make findings contrary to the cited admission, including that two or more species under consideration are patentably distinct.

The relevant facts show:

In the parent abandoned application, SN 10/946,571, on March 2, 2006, the examiner mailed an election of species requirement, which indicated that the applicant would be required to either elect a single disclosed species (the Office action indicated that 11 independent species were present in the application) or traverse on the grounds that the species are not patentably distinct. On April 5, 2006, a response to this restriction requirement was filed, where the applicant indicated "the species are not patentably distinct." Consequently, the examiner mailed a non-final Office action on April 25, 2006, where the election of species requirement was withdrawn in reliance on this admission. On June 5, 2008, a petition to expunge or withdraw the admission statement under 37 CFR 1.59(B) was filed. In the petition, petitioner has asserted that this admission was unintentionally submitted and the failure to withdraw this alleged admission

would cause irreparable harm to Applicants. Subsequently, on August 14, 2008, the Petitions office has dismissed the petition to expunge because the petition does not comply with 37 CFR 1.59. In particular, the Petitions Office also found that the admission statement was not unintentionally made. The admission statement made in the records was an intentionally action. The Petitions Office also concluded that expungement of this admission is not appropriate.

On January 31, 2005, the applicant filed the current application as a CIP of the parent application, SN 10/946,571. The current application contains additional new material regarding heat-dissipating fins as shown in the new Fig. 22. On November 15, 2007, the examiner issued an Office action rejecting some claims under 35 U.S.C. 103(a) as being unpatentable over Novotny (5,206,791) in view of Balderes et al (4,483,389) and further in view of the admission made in parent case 10/946,571. In response to the applicant's amendment of September 5, 2007, on November 15, 2007, the examiner issued another Office action rejecting at least claims 1-4, 9-14, 17, and 18 under 35 U.S.C. 103(a) as being unpatentable over Novotny (5,206,791) in view of Balderes et al (4,483,389) and further in view of applicants' admission that the species of the invention are not patentably distinct. The examiner also noted that the applicants have made an admission on the record in a response dated April 5, 2006 in parent application 10/946,571, that the species of the invention are not patentably distinct. Since all of the claims in the amendment are directed to species other than that examined by the examiner, they are rejectable over the previously applied references in view of applicants' admission that the species of the invention are not patentably distinct. Again, in response to the applicant's amendment of February 14, 2008, the examiner again issued a Final office action on May 1, 2008, rejecting at least claims 1-4, 9-14, 17, and 18 under 35 U.S.C. 103(a) as being unpatentable over Novotny (5,206,791) in view of Balderes et al (4,483,389) and further in view of applicants' admission that the species of the invention are not patentably distinct, since the examiner has found one of the previously restricted inventions unpatentable over the prior art. In response to a RCE and a new amendment of September 2, 2008, the examiner issued a non-final Office action on September 25, 2008 rejecting at least claims 1-4, 9-14, 17, and 18 under 35 U.S.C. 103(a) as being unpatentable over Novotny (5,206,791) in view of Balderes et al (4,483,389) and further in view of applicants' admission that the species of the invention are not patentably distinct, since the examiner has found one of the previously restricted inventions unpatentable over the prior art. On January 26, 2009, the current petition to withdraw prior admission was filed.

Discussion and Analysis

In the petition, petitioner requests the Director to grant two alternative relief, namely, 1) the prior applicant statement stating that the various species of the claimed invention are not patentably distinct be withdrawn; or 2) in the alternative, the admission is not controlling and the examiner is free to make findings contrary to the cited admission, including that two or more species under consideration are patentably distinct. Petitioner argues that the prior admission made on April 5, 2006 in response to an election of species requirement was erroneous. Petitioner presented five arguments, namely, A. the admission was made with regard to the then pending claims; B. the admission provided insufficient evidence to support a section 103 rejection; C. there is no clear USPTO policy on admission; D. the current application contains claims with new matter not covered by the admission of April 5, 2006; and E. current amended claims of January 26, 2009 are patentable over the cited prior art references.

A careful review of the parent file and the current application shows that the issue involved in the petition to expunge filed on June 5, 2008 is same as the current petition to withdraw prior admission filed on January 26, 2009. Since the Petitions Office has ruled that the requested expungement of the admission statement cannot be granted, the current requested relief also will not be granted for the same reasons as stated in the decision of the Petitions Office mailed on August 14, 2008.

Again, in reviewing of the parent files and the current application, the applicant made an admission to traverse the election of species requirement in the response of April 5, 2006 in the parent application. The examiner can not be compelled to ignore this factual admission of record in order to gain patentability. Therefore, the Director can not find the admission is not controlling. The Director also does not have authority to compel an examiner to ignore prior art when it is proper prior art. Any admissions are prior art. That would be like directing an examiner to ignore prior art so the application could issue. There is no question of the availability of the admission as prior art and the examiner is using such admission in her rejection of the claims. Nothing is improper about that use of applicant's admission. Petitioner has not pointed out why the admission is not prior art. Applicant made the admission. It is controlling and available for use. It is also necessary for the presumption of validity that underlies the US patent system. The requested withdrawal of the prior admission is not for the Director to change. This is inappropriate for petition under 1.181 which is to petition a patentability decision made by an examiner.

The arguments presented in points A, B, D and E are at best directed to propriety of the use of the applicant's admission in a rejection of claims under the section 103. Applying the plain language of 37 CFR 1.181(a)(1)[1], it is clear that petitioner's arguments will not support the requested relief, because the relief requested is simply not the type of relief that can be obtained by petition. The issues presented by petitioner are now clearly directed to the propriety of the examiner's use of the prior admission in conjunction with other prior art references in the rejection of the claims under the 35 USC 103 (a). The question of whether or not the claims should be rejected under the 35 USC 103 as unpatentable over Novotny (5,206,791) in view of Balderes et al (4,483,389) and further in view of applicants' admission that the species of the invention are not patentably distinct cannot be decided by petition. This is clearly an appealable issue under 37 CFR 1.181 (a) (1). 37 CFR 1.181 petition is not the appropriate vehicle to accomplish such. Of course, the applicant may feel free to amend the claims to overcome the 35 USC 103(a) rejection or appeal the examiner's rejection to the Board of Patent Appeals and Interferences.

With regard to the argument C, as pointed out on the decision of the Petitions Office mailed on August 14, 2008, that the applicant can not withdraw a prior admission because the procedures set forth in MPEP § 724 are designed to enable the Office to ensure as complete a patent file wrapper as possible. The written admission or arguments will not be expunged or withdrawn. It

[1] 37 CFR 1.181(a)(1) states: Petition may be taken to the Director: From any action or requirement of any examiner in the ex parte prosecution of an application, or in ex parte or inter partes prosecution of a reexamination preceding which is not subject to appeal to the Board of Patent Appeals and Interferences or to the court.

is the Office policy to maintain a complete record of the prosecution history. Once the response to the restriction requirement was filed, it became a part of the prosecution history. Any expungement or withdrawal of this admission would require removing the response to the restriction requirement, along with each subsequent Office action from the official record and would obscure the prosecution history.

Conclusion

Based on the above analysis, the requested relief in the petition of January 26, 2009 will not be granted. In particular, the prior applicant's statement regarding the various species of the claimed invention are not patentably distinct will not be withdrawn for the same reasons as stated in the previous decision rendered by the Petitions Office on August 14, 2008 in the abandoned parent application, SN 10/946,571. With regard to the requested relief that the admission is not controlling, this is an appealable matter and will not be decided by petition.

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". The application is being forwarded to the Supervisory Patent Examiner of Art Unit 3711 for consideration of the amendment filed under 37 CFE 1.116. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

According, the petition is dismissed.

Robert Olszewski, Director
Technology Center 3700

UNITED STATES PATENT AND TRADEMARK OFFICE

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RAMIREZ & SMITH
PO BOX 341179
AUSTIN, TX 78734

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NOV 19 2008

OFFICE OF PETITIONS

In re Application of	:	
Vivek Bhatt	:	
Application No. 11/047,336	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. GE.0030	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 30, 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 Notice of Non-Compliant Amendment mailed February 13, 2008, which set a shortened statutory period for reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on 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 $1540, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 2884 for appropriate action by the Examiner in the normal course of business on the reply received.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

PTO/SB/64 (08-08)
Approved for use through 09/30/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional) GE.0030

First named inventor: Vivek Bhatt

Application No.: 11/047,336 Art Unit: 2884

Filed: 01/28/2005 Examiner: Lee Shun K.

Title: SYSTEMS, METHODS AND APPARATUS FOR A KINETIC ENERGY ABSORBING DEVICE

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 $ 1540 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☑ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☑ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Sept. 30, 2008 Date
Michael G. Smith Typed or printed name	45,368 Registration Number, if applicable
Ramirez and Smith Address	(512) 608-4383 Telephone Number
1250 Connecticut Ave NW, #200, Washington, D.C. 20036-2603 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.

Sept. 30, 2008 Date	Signature
	Michael G. Smith Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

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DEC 23 2009

OFFICE OF PETITIONS

In re Application of	:	
June NAMGOONG et al.	:	
Application No. 11/047,347	:	DECISION ON PETITION
Filed: January 28, 2005	:	
Attorney Docket No. **040738**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 29, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 01, 2009, as required by the Notice of Allowance and Fee(s) Due, mailed July 01, 2009. Accordingly, the date of abandonment of this application is October 02, 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 and the publication fee of $300, (2) the petition fee of $1620; and (3) an adequate statement of unintentional delay. Accordingly, the Issue Fee is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to the Office Data Management for processing into a patent.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): June Namgoong	Group Art Unit: 2611
Application Serial No.: 11/047,347	Examiner: Ahn, Sam K.
Filed: January 28, 2005	Conf. No. 4746
Title: NOISE VARIANCE ESTIMATION IN WIRELESS COMMUNICATIONS FOR DIVERSITY COMBINING AND LOG-LIKELIHOOD SCALING	

PETITION TO REVIVE UNINTENTIONALLY ABANDONED APPLICATION UNDER 37 CFR 1.137(b))

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

1. This application became abandoned on October 19, 2009.

2. This petition is filed:

   ☒ within one year of the date of abandonment.
   ☐ within three months of the date of the first decision on a petition to revive under 37 CFR 1.137(a) which was filed within one year of the date of abandonment.
      ☐ the three month period has been extended up to (Type Date).
      ☐ enclosed is a petition and fee for extension of the three month period to (Type Date).

3. ☒ Applicant hereby petitions to revive this application under 37 CFR § 1.137(b). The entire delay in filing the required reply from the due date for the reply until the filing of this Petition was unintentional.

4. Proposed response:

   ☐ has been filed.
   ☒ is attached.
   ☐ The response is the filing of a continuation application having an express abandonment conditioned on the granting of a filing date to the continuing application copending with this application.

5. Fee (37 CFR 1.17(m))

Application status is:

- ☐ small entity – fee $750.00.
  - ☐ Verified Statement attached.
  - ☐ Verified Statement filed.
- ☒ other than small entity – fee $1,500.00.

6. Payment of fee:

- ☒ Please charge Deposit Account No. 17-0026 of QUALCOMM Incorporated in the amount of $1,500.00.
  The Commissioner is hereby authorized to charge payment of any additional fees which may be required, or credit any overpayment, to said Deposit Account No. 17-0026. A duplicate of this sheet is enclosed.
- ☒ The Commissioner is further hereby authorized to charge to said Deposit Account No. 17-0026, pursuant 37 CFR 1.25(b), any fee whatsoever which may become properly due or payable, as set forth in 37 CFR 1.16 to 37 CFR 1.18 inclusive, for the entire pendency of this application without specific additional authorization.

The undersigned declares further that all statements made herein are of his or her own knowledge are true and that statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Respectfully submitted,

Dated: October 29, 2009

By: _____
Larry J. Moskowitz, Reg. No. 42,911
858-651-4556

QUALCOMM Incorporated
Attn: Patent Department
5775 Morehouse Drive
San Diego, California 92121-1714
Telephone: (858) 658-5787
Facsimile: (858) 658-2502

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ZALE PATENT LAW
434 LACKAWANNA AVE.
SUITE 200
SCRANTON, PA 18503-2053

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FEB 27 2008

OFFICE OF PETITIONS

In re Application of	:	
Carl M. Bentley	:	
Application No. 11/047,350	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. W-01016-SDUDI	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed June 13, 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, "the client will use another attorney", 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 undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: JOSEPH IACONO
309 EAST 49TH STREET
APT 3C
NEW YORK, NY 10017

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OFFICE OF PETITIONS

In re Application of	:	
Carl M. Bentley	:	
Application No. 11/047,350	:	DECISION ON PETITION
Filed: January 27, 2005	:	TO WITHDRAW
Attorney Docket No. W-01016 SDUDI	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 17, 2007.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Lawrence P. Zale on behalf of all attorneys of record who are associated with customer No. 54853.

All attorneys/agents associated with the Customer Number 54853 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).

The application became abandoned for failure to timely respond the non-final Office action mailed March 27, 2007.

Telephone inquiries concerning this decision should be directed to undersigned at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: CARL M. BENTLET
115 OAK STREET, #2
BROOKLYN, NY 11222

cc: JOSEPH IACONO
309 EAST 49TH STREET
APT 3C
NEW YORK, NY 10017

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/047,350	01/27/2005	Carl M. Bentley	W-01016 SDUDI

CONFIRMATION NO. 4762

POWER OF ATTORNEY NOTICE

54853
ZALE Patent Law
434 Lackawanna Ave.
Suite 200
Scranton, PA 18503-2053

OC000000028456378

Date Mailed: 02/25/2008

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/17/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amwise/

Office of Initial Patent Examination (571) 272-4000 or 1-800-PTO-9199

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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MEDTRONIC
Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS, TN 38132

Mail Date: 04/21/2010

Applicant	: John D. Pond JR.	: DECISION ON REQUEST FOR
Patent Number	: 7643884	: RECALCULATION of PATENT
Issue Date	: 01/05/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,358	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1094** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61 STREET
NEW YORK, NY 10023

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JUL 14 2005

OFFICE OF PETITIONS

In re Application of
Tsung-Lung Yang
Application No. 11/047,369
Filed: January 31, 2005
For: RESONANCE CHAMBER OF A CELLULAR PHONE

DECISION REFUSING STATUS UNDER 37 CFR 1.47(b)

This is in response to the petition under 37 CFR 1.47(b), filed May 9, 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 31, 2005 without an executed oath or declaration and naming Tsung-Lung Yang as the sole inventor.

Accordingly, on March 9, 2005, a "Notice to File Missing Parts of Application" was mailed, requiring an executed oath or declaration, a filing fee, and a surcharge for their late filing.

In response, on May 9, 2005, the instant petition was filed.

A grantable petition under 37 CFR 1.47(b) requires:

(1) proof that the non-signing inventor cannot be reached or refuses to sign the oath or declaration;

(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 (1), as set forth above.

As to item (1), applicant failed to show or provide proof that the inventor has refused to sign the declaration. Before an inventor can refuse to sign an oath or declaration, he must have been presented with a copy of the application papers (specification, claims and drawings). See MPEP 409.03(d).

The statement of facts by Andrea Chang sets forth:

> "Mar. 1, 2005 - I sent an e-mail to Dr. YANG copy to Mr. William CHIANG informing him how we tried to contact him. I also informed him that our company would be willing to offer a compensation fee and asked him to sign the relation forms after reviewing the English version of specification and drawings. Since the material would be sent via registered mail. I asked him to provide me with the mailing address. I would send him the English version of specification and drawings for his reviewing with the forms required signature and the receipt needed filling in the name and address with the blank space for bank account for remittance. I asked him to return the required documents to me at No.18, Kee Hu Road. Taipei, Taiwan. F.O.C. "

The provided statements of facts do not indicate that the non-signing inventor was actually presented with a copy of the application papers (specification, claims and drawings), only that these documents were to be prepared and *would* be sent to him.

Petitioner should show that a copy of the application papers was presented to the inventor, but that he did not respond to, or refused, the request that he sign the oath/declaration in order to show that the inventor has refused to join in the application. The proof of the pertinent events should be made by a statement of someone with first hand knowledge of the events.

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: (571) 273-8300
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
United States Patent and Trademark Office

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WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61 STREET
NEW YORK, NY 10023

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of Tsung-Lung Yang Application No. 11/047,369 Filed: January 31, 2005 For: RESONANCE CHAMBER OF A CELLULAR PHONE	: : : : : :	DECISION GRANTING PETITION UNDER 37 CFR 1.47(b)

This is in response to the "Request For Reconsideration of Petition Under 37 CFR 1.47(b)," filed December 19, 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 statement of facts of Andrea Chang establishes 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 that Benq Corporation (Benq) has a proprietary interest in the above-identified application with the copy of the employment contract showing that the inventor had an obligation to assign any patent rights to Benq. 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.

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 2600 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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TSUNG-LUNG YANG
3F-5, No. 9, LANE 175, WU-LING ROAD
HSINCHU CITY
TAIWAN, R.O.C.

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JAN 0 9 2006

OFFICE OF PETITIONS

In re Application of
Tsung-Lung Yang
Application No. 11/047,369
Filed: January 31, 2005
For: RESONANCE CHAMBER OF A CELLULAR PHONE

Dear TSUNG-LUNG YANG:

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

WILLIAM R. EVANS
LADAS & PARRY
26 WEST 61 STREET
NEW YORK, NY 10023

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HUNTON & WILLIAMS LLP / SYMANTEC CORPORATION
INTELLECTUAL PROPERTY DEPT.
1900 K STREET, NW
SUITE 1200
WASHINGTON, DC 20006-1109

Mail Date: 04/21/2010

Applicant	: Brian Hernacki	: DECISION ON REQUEST FOR
Patent Number	: 7617533	: RECALCULATION of PATENT
Issue Date	: 11/10/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,381	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1144** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENNETH L. TOLAR
2908 Hessmer Avenue
Metairie LA 70002

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APR 30 2009

OFFICE OF PETITIONS

In re Application of	:	
Ronald R. Sciortino	:	
Application No. 11/047,392	:	DECISION ON PETITION
Filed: January 31, 2005	:	
	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and fee on or before June 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2007. Accordingly, the date of abandonment of this application is June 13, 2007. The Notice of Abandonment was mailed July 5, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of $755, (2) the petition fee of $810; and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Chris Bottorff
Petitions Examiner
Office of Petitions

cc: **Ronald R. Sciortino**
101 River Road
New Orleans, LA 70121

UNITED STATES PATENT AND TRADEMARK OFFICE

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KINNEY & LANGE, P.A.
THE KINNEY & LANGE BUILDING
312 SOUTH THIRD STREET
MINNEAPOLIS MN 55415-1002

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SEP 13 2005

OFFICE OF PETITIONS

In re Application of	
Walter	
Application No. 11/047,396	DECISION GRANTING
Filed: January 31, 2005	PETITION
Attorney Docket No. C586.12-0006	
For: SLED WITH WIND BRACE	

This is a decision on the petition, filed March 29, 2005, requesting, in effect, withdrawal of the Notice of Omitted Item(s) in a Nonprovisional Application (Notice), mailed March 24, 2005.

The application was filed on January 31, 2005. On March 24, 2005, the Office of Initial Patent Examination mailed a Notice informing petitioner that pages 1-3 of the specification appeared to have been omitted.

In response to the Notice, petitioner timely filed the present petition on March 24, 2005. Petitioner requests that pages 1-3 be accorded a filing date of January 31, 2005 on the basis that the entire specification, including allegedly missing pages 1-3, was received in the Patent and Trademark Office (PTO) on January 31, 2005.

In support, the petition is accompanied by a copy of applicant's itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 31, 2005 as the date of receipt. The postcard lists that the filing included, *inter alia*, 12 pages of specification. A review of the application file reveals that there are 9 pages present. Pages 1-3 are missing.

The return postcard constitutes *prima facie* evidence that the entire 12 page specification, including missing pages 1-3, was filed on January 31, 2005. MPEP 503. Accordingly, the request is granted.

Pursuant to petitioner's authorization, the $400.00 petition fee will be credited to petitioner's deposit account, no. 11-0982.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 31, 2005**, using the copy of pages 1-3 supplied with the 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

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Patent Group
Microsoft Corporation
One Microsoft Way
Redmond, WA 98052

Mail Date: 04/21/2010

Applicant	: Dharma K. Shukla	: DECISION ON REQUEST FOR
Patent Number	: 7631291	: RECALCULATION of PATENT
Issue Date	: 12/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,404	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **886** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

UNITED STATES PATENT AND TRADEMARK OFFICE

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 04/20/2010

Applicant	: Jeffrey L. Nye	: DECISION ON REQUEST FOR
Patent Number	: 7587532	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,410	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **807** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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KENNETH L. TOLAR
2908 Hessmer Avenue
Metairie LA 70002

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APR 16 2009

OFFICE OF PETITIONS

In re Application of	:	
Ronald R. Sciortino	:	
Application No.: 11/047425	:	ON PETITION
Filing or 371(c) Date: 01/31/2005	:	
Title of Invention: ICEMAKER WITH	:	
IMPROVED CAM ASSEMBLY	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 3, 2009, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue fee on or before June 12, 2007, as required by the Notice of Allowance and Fee(s) Due, mailed March 12, 2007. Accordingly, the date of abandonment of this application is June 13, 2007. A Notice of Abandonment was mailed July 6, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee; (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

This application is being referred to the Office of Data Management for processing into a patent.

/Derek L. Woods/
Derek L. Woods
Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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OFFICE OF PETITIONS

PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK, NJ 08933-7003

In re Application of	:	
Donald James Moran Jr. et al	:	
Application No. 11/047,450	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. CDS5018USCIP	:	

This is a decision on the petition under 37 CFR 1.137(b), filed June 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 September 8, 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 December 9, 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 2877 for further processing.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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JUN 13 2007

OFFICE OF PETITIONS

PATENT LAW OFFICE OF DAVID G. BECK
P. O. BOX 1146
MILL VALLEY CA 94942

In re Application of	:	
TESSIEN, Ross A.	:	
Application No. 11/047,459	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. **IMP021C**	:	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 **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, the sole attorney of record. The undersigned attorney has 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 Ross A. Tessien at the address indicated below.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

Terri Williams
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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United States Patent and Trademark Office
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Maynard Cooper & Gale, PC
1901 Sixth Avenue North
2400 Regions/Harbert Plaza
BIRMINGHAM AL 35203-2618

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JUL 0 2 2008

OFFICE OF PETITIONS

In re Application of	:	
Ross Alan **TESSIEN**	:	
Application No. 11/047,459	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 12259-1	:	

This is a decision on the petition, filed March 31, 2008, under 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 non-final Office action mailed, September 6, 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) was obtained. Accordingly, the application became abandoned on December 7, 2007.

The petition satisfies the requirements for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, (2) the petition fee of $ 770 and (3) a proper statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of September 6, 2007 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Lori Baker Amerson at (571) 272-6052, or in her absence, the undersigned at (571) 272-7099.

This application is being referred to Technology Center AU 1723 for appropriate action on the concurrently filed amendment.

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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Che-Wen Liu
235 Chung-Ho
Box 8-24
Taipei TW **TAIWAN**

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JUN 23 2008

In re Application of	:	
Che-Wen Liu, et. al.	:	
Application No. 11/047,487	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. SP5004-P-1065-AAG	:	

This is a decision on the petition under 37 CFR 1.137(b) filed on November 19, 2007, which is being treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **DISMISSED**.

The statement of unintentional delay is signed by one of two joint inventors. An unsigned paper or one not properly signed by a person having authority to prosecute an application or patent is not entered. This applies, for instance, where a petition (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other.

Therefore, as the petition was not signed by all the inventors and the record herein fails to disclose that Che-Wen Liu was ever given a power of attorney to act on behalf of joint inventor Chien-Cheng Liu, or that Che-Wen Liu is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b)[1], the petition filed November 19, 2007 is considered not to contain a proper statement of unintentional delay.

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) is 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 35 U.S.C. § 704.

[1]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.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300.**

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3226.

Andrea Smith
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Che-Wen Liu
235 Chung-Ho
Box 8-24
Taipei TW **TAIWAN**

COPY MAILED

OCT 28 2008

OFFICE OF PETITIONS

In re Application of	:	
Che-Wen Liu, et. al.	:	
Application No. 11/047,487	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. SP5004-P-1065-AAG	:	

This is a decision on the renewed petition under 37 CFR 1.137(b), filed on July 29, 2008, to revive the above-identified application.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of $700 for payment of the issue and $300 for payment of the publication fee; (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

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DELBERT J. BARNARD
P.O. BOX 58888
SEATTLE, WA 98138-1888

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MAR 0 7 2006

OFFICE OF PETITIONS

In re Application of	:	
Raymond Keith Foster	:	
Application No. 11/047,496	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. Foster "EB"	:	37 CFR 1.102(c)(1)
	:	

This is a decision on the petition under 37 CFR 1.102(c)(1), filed December 15, 2005 and supplemented on January 23, 2006, to make the above-identified application special based on applicant's age as set forth in M.P.E.P. § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required

The instant petition includes a statement from Inventor Raymond Keith Foster stating that he is over 65 years of age. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3651 for action on the merits commensurate with this decision.

Irvin Dingle
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

JJGJR.: 07-06

Paper No: __

COPY MAILED

JUL 12 2006

OFFICE OF PETITIONS

DELBERT J. BARNARD
P.O. BOX 58888
SEATTLE WA 98138-1888

In re Application of	:	
Foster	:	DECISION
Application No.: 11/047,496	:	
Filing Date: 31 January, 2005	:	
Attorney Docket No. Foster "EB"	:	

This is a decision on the petition filed on 15 December, 2005, to revive under 37 C.F.R. §1.137(b).

NOTE:

It appears that, since the filing of the original petition, Petitioner has not inquired as to the Status of the instant matter–Petitioner is reminded that the filing of such inquiries at a minimum of three- (3-) month intervals may provide a showing of diligence should the extended delay be questioned (for example, as required under 37 C.F.R. §1.181).

For the reasons set forth below the petition under 37 C.F.R. §1.137(b) is **GRANTED**.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to the Notice of Missing Parts mailed on 4 May, 2005, with reply due absent extension of time on or before 4 August, 2005;

- the instant application went abandoned after midnight 4 August, 2005;
- the Office mailed the Notice of Abandonment on 2 November, 2005;
- on 15 December, 2005, Petitioner filed the instant petition with fee, seeking revival as abandoned due to unintentional delay, and submitted the reply in the form of an executed oath/declaration and made the statement of unintentional delay;
- 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]

---

[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.

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).[2]

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5] And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

(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] 35 U.S.C. §133 provides:
35 U.S.C. §133 Time for prosecuting application.
Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

[3] Therefore, by example, an 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.

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] 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.

[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.

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

The requirements for relief under the provisions of 37 C.F.R. §1.137(b) are: petition, fee, reply, showing of unintentional delay, and–where appropriate–a terminal disclaimer and fee.

Petitioner appears to have satisfied the requirements under the regulation.

CONCLUSION

The petition under 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to OIPE for further processing as required before being forwarded for substantive examination in due course.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3214.

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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

MOLECULAR IMPRINTS
PO BOX 81536
AUSTIN, TX 78708-1536

Mail Date: 04/21/2010

Applicant	: Byung-Jin Choi	: DECISION ON REQUEST FOR
Patent Number	: 7636999	: RECALCULATION of PATENT
Issue Date	: 12/29/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,499	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1178** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

JJGJR.: 08-06

Paper No: __

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AUG 17 2006

OFFICE OF PETITIONS

VIVEK SHARMA
4796-1 LAKE WATERFORD WAY WEST
MELBOURNE FL 32901

In re Application of	:	
Sharma	:	DECISION
Application No.: 11/047,506	:	
Filing Date: 1 February, 2005	:	
Attorney Docket No. (None)	:	

This is a decision on the petition filed on5 June, 2006, to revive the instant application under 37 C.F.R. §1.137(b) as having as abandoned due to unintentional delay.

For the reasons set forth below the petition as considered under 37 C.F.R. §1.137(b) is **DISMISSED**.

NOTES:

Monitoring of the status of applications on PAIR can inform one's management of application responses and provide an indication when mailings of Office actions should be expected.

Moreover, Status Inquiries filed at three (3) or four (4) month intervals provide a demonstration of diligence and attention in supporting a petition seeking relief under 37 C.F.R. §1.181.

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

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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.

(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] 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.

Petitioner appears unfamiliar with practice before the Office–Petitioner is referred to:

- **the guidance (as to revival of abandoned applications) found at the Office website at: http://www.uspto.gov/web/offices/pac/dapp/petitionspractice.html#lapse ; and/or**

- **review the guidance at: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c .**

(1) Any petition (and fee) for reconsideration of this decision 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)."

(2) Thereafter, there will be no further reconsideration of this matter.

BACKGROUND

The record reflects that:

- Petitioner failed to reply timely and properly to Notice to File Missing Parts mailed on 22 March, 2005, with reply due absent extension of time on or before 22 May, 2005;

- the application went abandoned by operation of law after midnight 22 May, 2005;

- the Office mailed the Notice of Abandonment 3 May, 2006;

- on 5 June, 2006, Petitioner filed the instant petition (but insufficient fee–$750.00 as of this writing, however, fees are changed from time-to-time), a reply in the form of fees, which payment was insufficient, and made a statement of unintentional delay–however, the statement did not comply with the regulation–a copy of the petition form is included herewith and Petitioner should consult the Office website (www.uspto.gov , see "Patents" and then see "Forms" or "Fees") before submission for forms and to ensure that fees are current when submitted.

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

a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority. The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition.[3]

Delays in responding properly raise the question whether delays are unavoidable.[4] 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).[5] And the Petitioner must be diligent in attending to the matter.[6] 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.[7]))

Allegations as to
Unintentional Delay

The requirements for a grantable petition under 37 C.F.R. §1.137(b) are the petition and fee, a statement/showing of unintentional delay, a proper reply, and–where appropriate--a terminal disclaimer and fee.

It appears as of this writing that Petitioner has yet to satisfy the "fee," "reply," and "statement/showing" requirements.

CONCLUSION

The petition as considered under 37 C.F.R. §1.137(b) is **dismissed**.

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[3] 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.

[4] 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).

[5] See: In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989).

[6] 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.

[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:[8]

By mail: Commissioner for Patents[9]
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[10]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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[8] On July 15, 2005, the Central Facsimile (FAX) Number changed to (571) 273-8300. The number (571) 273-8300 is 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 .)

[9] To determine the appropriate addresses for other subject-specific correspondence, refer to the USPTO Web site at www.uspto.gov.

[10] 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

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NUMBER
11/047,506	02/01/2005	Vivek Sharma	

CONFIRMATION NO. 5418

FORMALITIES LETTER

"OC000000015511029"

Mr. Vivek Sharma
4796-1 Lake Waterford Way West
Melbourne, FL 32901

Date Mailed: 03/22/2005

NOTICE TO FILE MISSING PARTS OF NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

Filing Date Granted

Items Required To Avoid Abandonment:

An application number and filing date have been accorded to this application. The item(s) indicated below, however, are missing. Applicant is given TWO MONTHS from the date of this Notice within which to file all required items and pay any fees required below to avoid abandonment. Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136(a).

SUMMARY OF FEES DUE:

Total additional fee(s) required for this application is **$350** for a Small Entity

- The application search fee has not been paid. Applicant must submit **$250** to complete the search fee.
- The application examination fee has not been paid. Applicant must submit **$100** to complete the examination fee for a small entity in compliance with 37 CFR 1.27

Replies should be mailed to: Mail Stop Missing Parts
Commissioner for Patents
P.O. Box 1450
Alexandria VA 22313-1450

A copy of this notice MUST be returned with the reply.

Customer Service Center
Initial Patent Examination Division (703) 308-1202

PART 3 - OFFICE COPY

Document Code: IMIS

Notice of Fee Due

Date: 06/06/06

Application Number: 11/042506

A fee is due for the attached document for the reason indicated below. Please check the application for the appropriate authorization to charge a deposit account. If an authorization is present, please charge the appropriate fee*. If an authorization is not present, notify the application of the fee deficiency.

***If the fee due is for any of the filing fees, check for authorization to charge the surcharge. If authorization is present, charge the surcharge for late payment of the filing fees as well.**

- ☐ Insufficient payment by check or money order.
- ☐ Insufficient funds in deposit account _____.
- ☑ Insufficient payment by credit card.
- ☐ Declined credit card.
- ☐ No authorization to charge a deposit account.

Fee code(s) to be applied:	2452	250
Amount in holding fee code:	1622	
	2622	
	1999	60
Total remaining due from applicant:		190

RAM Operator NG

Rev. 4/20/06

PTO/SB/64 (07-06)
Approved for use through 09/30/2006. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE
Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)

Docket Number (Optional)

First named inventor:

Application No.: Art Unit:

Filed: Examiner:

Title:

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:
(1) Petition fee;
(2) Reply and/or issue fee;
(3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
(4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee $ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☐ Other than small entity – fee $ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of _____(identify type of reply):

☐ has been filed previously on _____.
☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of $ _____.

☐ has been paid previously on _____.
☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

3. Terminal disclaimer with disclaimer fee

☐ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.

☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of $ _____ for a small entity or $ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING:

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.

Signature	Date
Typed or printed name	Registration Number, if applicable
Address	Telephone Number
Address	

Enclosures:
- ☐ Fee Payment
- ☐ Reply
- ☐ Terminal Disclaimer Form
- ☐ Additional sheets containing statements establishing unintentional delay
- ☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

Date	Signature
	Typed or printed name of person signing certificate

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

WOOD, HERRON & EVANS, L.L.P. (IBM)
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Mail Date: 04/20/2010

Applicant	: Michael Donald Pfeifer	: DECISION ON REQUEST FOR
Patent Number	: 7584200	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,535	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1013** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

MCNEES WALLACE & NURICK LLC
100 PINE STREET
P.O. BOX 1166
HARRISBURG, PA 17108-1166

Mail Date: 04/21/2010

Applicant	: William Joseph Fox	: DECISION ON REQUEST FOR
Patent Number	: 7578659	: RECALCULATION of PATENT
Issue Date	: 08/25/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,552	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **816** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

OIPE JC26
APR 11 2005
PATENT & TRADEMARK OFFICE

IFW 30

Paper No.:___

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Inventor(s): McLEAN, Gerard Francis
Title: ELECTROCHEMICAL CELLS FORMED ON PLEATED SUBSTRATES
Serial No.: 11/047557
Agent Docket: A454 0013
Filed: 2 February 2005
Date: 8 April 2005

1746
M. Wills

Mail Stop **Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petition to Make Special Pursuant to 37 C.F.R. § 1.102

The Applicant requests that the Commissioner grant an order to make this application "special" pursuant to 37 C.F.R. § 1.102(c). No fee is due in connection with this petition pursuant to 37 C.F.R. § 1.102(c) and (d).

An Affidavit of Dr. Ned Djilali dated 30 March 2005 is enclosed to support this petition.

Materially Enhance the Quality of the Environment

The Applicant submits that this application is eligible to be designated as "special" as set out in M.P.E.P. § 708.02(V) because the invention described in this application will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil.

In particular, the Applicant submits that this application should be made "special" as set out in M.P.E.P. § 708.02(V) because:

- The invention described in the application has application in hydrogen fuel cells: application at paragraph 0025; Djilali Affidavit at paragraph 6;
- Use of hydrogen fuel cells to produce electricity as a replacement for the combustion of fossil fuels will materially enhance the quality of the environment by reducing pollution of the air: Djilali Affidavit at paragraph 7;
- Use of hydrogen fuel cells to produce electricity as a replacement for disposable batteries will enhance the quality of the environment by contributing to the restoration

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

APR 26 2005

OIPE JC25
APR 11 2005
PATENT & TRADEMARK OFFICE

IFW 20

Paper No.:___

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Inventor(s): McLEAN, Gerard Francis; NGO, Tran; DJILALI, Ned; STUKAS, Anna; SCHROOTEN, Jeremy

Title: MEMBRANES AND ELECTROCHEMICAL CELLS INCORPORATING SUCH MEMBRANES

Serial No.: 11/047,558

Agent Docket: A454 0015

Filed: 2 February 2005

Date: 8 April 2005

Mail Stop **Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petition to Make Special Pursuant to 37 C.F.R. § 1.102

The Applicant requests that the Commissioner grant an order to make this application "special" pursuant to 37 C.F.R. § 1.102(c).

An Affidavit of Dr. Ned Djilali dated 30 March 2005 is enclosed to support this petition.

Materially Enhance the Quality of the Environment

The Applicant submits that this application is eligible to be designated as "special" as set out in M.P.E.P. § 708.02(V) because the invention described in this application will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil.

In particular, the Applicant submits that this application should be made "special" as set out in M.P.E.P. § 708.02(V) because:

- The invention described in the application has application in hydrogen fuel cells: application at paragraph 0026; Djilali Affidavit at paragraph 6;
- Use of hydrogen fuel cells to produce electricity as a replacement for the combustion of fossil fuels will materially enhance the quality of the environment of mankind by reducing pollution of the air: Djilali Affidavit at paragraph 7;
- Use of hydrogen fuel cells to produce electricity as a replacement for disposable batteries will enhance the quality of the environment by contributing to the restoration

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700

MAY - 3 2005

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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ARENT FOX LLP
1050 CONNECTICUT AVENUE, N.W.
SUITE 400
WASHINGTON, DC 20036

Mail Date: 04/20/2010

Applicant	: Takaoki Ogawa	: DECISION ON REQUEST FOR
Patent Number	: 7622760	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,559	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: 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.

OIPE JC25
APR 11 2005
PATENT & TRADEMARK OFFICE

IFW 20

Paper No.:___

IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Inventor(s): McLEAN, Gerard Francis; STUKAS, Anna; SCHROOTEN, Jeremy
Title: ELECTROCHEMICAL CELLS HAVING CURRENT-CARRYING STRUCTURES UNDERLYING REACTION LAYERS
Serial No.: 11/047,560
Agent Docket: A454 0014
Filed: 2 February 2005
Date: 8 April 2005

1746

Mail Stop **Petition**
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Petition to Make Special Pursuant to 37 C.F.R. § 1.102

The Applicant requests that the Commissioner grant an order to make this application "special" pursuant to 37 C.F.R. § 1.102(c).

An Affidavit of Dr. Ned Djilali dated 30 March 2005 is enclosed to support this petition.

Materially Enhance the Quality of the Environment

The Applicant submits that this application is eligible to be designated as "special" as set out in M.P.E.P. § 708.02(V) because the invention described in this application will materially enhance the quality of the environment of mankind by contributing to the restoration or maintenance of the basic life-sustaining natural elements, i.e., air, water, and soil.

In particular, the Applicant submits that this application should be made "special" as set out in M.P.E.P. § 708.02(V) because:

- The invention described in the application has application in hydrogen fuel cells: application at paragraph 0035; Djilali Affidavit at paragraph 6;
- Use of hydrogen fuel cells to produce electricity as a replacement for the combustion of fossil fuels will materially enhance the quality of the environment by reducing pollution of the air: Djilali Affidavit at paragraph 7;

PETITION GRANTED

Richard Crispino
Special Program Examiner
TC 1700 MAY - 3 2005

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

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
MINNEAPOLIS, MN 55402

Mail Date: 05/20/2010

Applicant	: Gerard Francis McLean	: DECISION ON REQUEST FOR
Patent Number	: 7632587	: RECALCULATION of PATENT
Issue Date	: 12/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,560	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **173** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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

NIXON PEABODY, LLP
401 9TH STREET, NW
SUITE 900
WASHINGTON DC 20004-2128

COPY MAILED
JAN 20 2010

In re Patent No. 7,291,919	:	
Issue Date: November 6, 2007	:	
Application No. 11/047,565	:	ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. 740819-1100	:	

This is a decision on the petition filed October 15, 2009, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

for Thurman K. Page
Petitions Examiner
Office of Petitions

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

McDERMOTT WILL & EMERY LLP
600 13TH STREET NW
WASHINGTON, DC 20005-3096

COPY MAILED

NOV 19 2007

OFFICE OF PETITIONS

In re Application of	:
Tatsuya Kunisato et al	:
Application No. 11/047,580	: DECISION GRANTING PETITION
Filed: February 2, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57810-123	:

This is a decision on the petition, filed November 16, 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 9, 2007 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the Information Disclosure Statement.

Frances Hicks
Petitions Examiner
Office of Petitions

C:\Documents and Settings\fhicks\My Documents\470\nov11\047580

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment.*

UNITED STATES PATENT AND TRADEMARK OFFICE

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MCDERMOTT WILL & EMERY LLP
600 13TH STREET, N.W.
WASHINGTON, DC 20005-3096

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MAR 1 3 2009

OFFICE OF PETITIONS

In re Application of
Tatsuya **KUNISATO, et al.**
Application No. 11/047,580
Filed: February 2, 2005
Attorney Docket No. 57810-123

DECISION GRANTING PETITION
UNDER 37 CFR 1.313(c)(2)

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 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 February 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2818 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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WASHINGTON, DC 20005-3096

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OFFICE OF PETITIONS

In re Application of	:	
Tatsuya **KUNISATO, et al.**	:	
Application No. 11/047,580	:	DECISION GRANTING PETITION
Filed: February 2, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 57810-123	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 12, 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 February 13, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2818 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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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

Mail Date: 05/25/2010

Applicant	: Kenichi Machida	: DECISION ON REQUEST FOR
Patent Number	: 7623328	: RECALCULATION of PATENT
Issue Date	: 11/24/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,588	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **107** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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OFFICE OF PETITIONS

MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN VA 22102

In re Application of

ANDERSEN, Frank-Uwe et al.
Application No. 11/047,618
Filed: February 02, 2005
Attorney Docket No. **449122079700**

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 25, 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 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

The request to change the correspondence of record is not acceptable as the requested correspondence address is not that of: (1) the first named signing inventor; or (2) an intervening assignee of the entire interest under 37 C.F.R 3.71. All future communications from the Office will be directed to the first named signing inventor.

There are no outstanding office actions at this time.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at 571-272-4231.

T. Williams

Terri Williams
Petitions Examiner
Office of Petitions

cc: **FRANK-UWE ANDERSEN**
MARIE-ELISABETH-LUDERS-STR. 7
BERLIN 10625
GERMANY

cc: **BELL, BOYD & LLOYD LLC**
ATTN: KEVIN SPIVAK
70 WEST MADISON STREET
SUITE 3100
CHICAGO, ILLINOIS 60602-4207

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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/047,618	02/02/2005	Frank-Uwe Andersen	449122079700

CONFIRMATION NO. 5884

OC000000024939348

25227
MORRISON & FOERSTER LLP
1650 TYSONS BOULEVARD
SUITE 400
MCLEAN, VA 22102

Date Mailed: 07/20/2007

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/25/2007.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

Michelle R. Eason

Office of Initial Patent Examination (571) 272-4000, or 1-800-PTO-9199
FORMER ATTORNEY/AGENT COPY

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MILES & STOCKBRIDGE PC
1751 PINNACLE DRIVE
SUITE 500
MCLEAN VA 22102-3833

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In re Application of	:	
Hatano, et al.	:	
Application No. 11/047,620	:	DECISION ON PETITION
Filed: February 2, 2005	:	
Attorney Docket No. XA-9712A	:	

This is a decision on the petition, filed July 28, 2008, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The Office contended the above-identified application became abandoned for failure to timely submit a reply within one month of the mailing of the June 15, 2007 Notice of Non-Compliant Amendment (Notice). No response being received, this application became abandoned on July 16, 2007. A Notice of Abandonment was mailed on July 10, 2008.

Petitioners assert that the Office action dated June 15, 2007was not received.

A review of the written record indicates no irregularity in the mailing of the Office action, and, in the absence of any irregularity, there is a strong presumption that the Office action was properly mailed to the practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. In this regard, the showing required to establish the failure to receive the Office action must consist of the following:

1. a statement from practitioner stating that the Office action was not received by the practitioner;

2. a statement from the practitioner attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received; and

3. a copy of the docket record where the nonreceived Office action would have been entered had it been received and docketed must be attached to and referenced in the practitioner's statement.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The petition satisfies the above-stated requirements. Accordingly, the application was not abandoned in fact.

In view of the above, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

Applicants have filed a reply to the June 15, 2007 Notice of Non-Compliant Amendment. Therefore, it is unnecessary to re-mail the Notice. This application is being referred to the Technology Center Art Unit 2813 for consideration of the amendment filed on July 28, 2008.

Telephone inquires pertaining to this decision should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 04/21/2010

Applicant	: Taul Katayama	: DECISION ON REQUEST FOR
Patent Number	: 7620054	: RECALCULATION of PATENT
Issue Date	: 11/17/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,774	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1015** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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TOWNSEND AND TOWNSEND AND CREW LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

Mail Date: 04/26/2010

Applicant	: Alexandros T. Demos	: DECISION ON REQUEST FOR
Patent Number	: 7588803	: RECALCULATION of PATENT
Issue Date	: 09/15/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,785	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **889** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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	: Rongxuan V. Chen	: DECISION ON REQUEST FOR
Patent Number	: 7573887	: RECALCULATION of PATENT
Issue Date	: 08/11/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,795	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **975** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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ORRICK HERRINGTON & SUTCLIFFE, LLP
IP PROSECUTION DEPARTMENT
4 PARK PLAZA, SUITE 1600
IRVINE, CA 92614-2558

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SEP 28 2009

OFFICE OF PETITIONS

In re Application of	:	
William F. Beausoleil et al	:	
Application No. 11/047,802	:	DECISION ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 706316.4008	:	

This is a decision on the petition, filed July 20, 2009, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the final Office action mailed December 15, 2008, which set a three (3) month shortened statutory period for reply.

Petitioner asserts that the Office action dated December 15, 2008 was not received.

The USPTO's records indicate that the December 15, 2008 Office action was returned on December 19, 2008 as undelivered. It appears that the correspondence address window was not visible and therefore returned.

See MPEP § 711.03(c) under subheading "Petition to Withdraw Holding of Abandonment Based on Failure to Receive Office Action," and "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 Official Gazette 53 (November 16, 1993).

The Office sincerely apologizes for any inconvenience caused petitioner in this matter.

In view of the above, the holding of abandonment is withdrawn.

This application is being referred to the Technology Center technical support staff of Art Unit 2123 for re-mailing the Office action of December 15, 2008. The period for reply will run from the mailing date of the Office action.

Irvin Dingle
Petitions Examiner
Office of Petitions

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MAY 25 2005

Walter L. Beavers
326 South Eugene Street
Greensboro, NC 27401

In re Application of:
Jimmy L. Adcock
Serial No. 11/047,806
Filed: February 01, 2005

DECISION ON PETITION TO MAKE SPECIAL (APPLICANT'S AGE AND HEALTH)

For: TREE REMOVAL ATTACHMENT AND METHOD

This is a decision on the petition filed February 01, 2005 under 37 CFR 1.102 (c) to make the above-identified application special under the procedure set forth in MPEP 708.02, Section III: Applicant's Health and Section IV: Applicant's Age. There is no fee for either petition.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section III requires evidence that the state of health of the applicant is such that he might not be able to assist in the prosecution of the application if it were to run its normal course.

A grantable petition to make an application special under 37 C.F.R. 1.102(c), MPEP 708.02, Section IV requires a showing that the applicant is 65 years of age or more.

The petition does not include a doctor's certificate or other medical certificate showing the state of health of the applicant is such that he might not be available to assist in the prosecution of the application if it were to run its normal course.

The petition does not include evidence showing that the applicant is 65 years of age or more.

For the above stated reasons, the petition is **DISMISSED**.

Kenneth Dorner
Special Programs Examiner
Technology Center 3600
(571) 272-6587

JS

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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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MAY 10 2006

OFFICE OF PETITIONS

Applicant: Loisel et al.
Appl. No.: 11/047,813
Filing Date: January 31, 2004
Title: HYBRID MAIZE X0842K
Attorney Docket No.: P07037US00 – PHI 1995
Pub. No.: US 2005/0138696 A1
Pub. Date: June 23, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), received on August 2, 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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MCKEE, VOORHEES & SEASE, P.L.C.
ATTN: PIONEER HI-BRED
801 GRAND AVENUE, SUITE 3200
DES MOINES IA 50309-2721

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MAR 22 2006

OFFICE OF PETITIONS

Applicant: Hoffbeck
Appl. No.: 11/047,827
Filing Date: January 31, 2005
Title: HYBRID MAIZE 35A30
Attorney Docket No.: P07019US00-PHI 1977
Pub. No.: US 2005/0114949 A1
Pub. Date: May 26, 2005

This is a decision on the request for a corrected patent application publication under 37 CFR 1.221(b), filed on June 30, 2005, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

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

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _5/27/2010__

DATE : 5-27-2010

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 11047858 Patent No.: 7228518

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Eva James
Certificates of Correction Branch
703-756-1583

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: Certificate of Correction filed 10/06/2009 has been approved.

/Jack Chiang/ SPE Art Unit 2825
SPE **Art Unit**

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EXXONMOBIL RESEARCH & ENGINEERING COMPANY
P.O. BOX 900
1545 ROUTE 22 EAST
ANNANDALE NJ 08801-0900

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OFFICE OF PETITIONS

In re Application of	:	
Tahmid I. MIZAN et al.	:	
Application No. 11/047,865	:	DECISION ON PETITION
Filed: February 01, 2005	:	
Attorney Docket No. **GJH-0503 (P2004J015)**	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 21, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 02, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 03, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of $810, and the submission required by 37 CFR 1.114; (2) the petition fee of $1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.

This application is being referred to Technology Center AU 1797 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Ramesh Krishnamurthy

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

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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 to be charged to Deposit Account No. 05-1330] (see PTO/SB/63).

4. Statement: The entire delay in filing the required reply from the due date for the required replay until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [Note. The USPTO 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)III(C) and (D))].

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

8/21/09
Date

Signature

Telephone Number: (908) 730-3632

DAVID M. WEISBERG 57636
Typed or printed name

ExxonMobil Research and Engineering Company
(formerly Exxon Research and Engineering Company)
P. O. Box 900
Annandale, New Jersey 08801-0900

Enclosures:
[ ] Fee Payment
[ ] Reply
[ ] Terminal Disclaimer Form
[ ] Additional sheets containing statements establishing unintentional delay

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]

I hereby certify that this correspondence is being:

[X] deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Assistant Commissioner for Patents, Box DAC, Washington, DC 20231.

[ ] transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-4556

Date

Signature

JOANNE WOLTERS
Typed or printed name of person signing Certificate

PAGE 8/8 * RCVD AT 8/21/2009 3:00:44 PM [Eastern Daylight Time] * SVR:USPTO-EFXRF-6/7 * DNIS:2738300 * CSID:908 730 3649 * DURATION (mm-ss):01-30

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MAY 17 2005

TECHNOLOGY CENTER 3600

NATH & ASSOCIATES
1030 15TH STREET, NW
6TH FLOOR
WASHINGTON, DC 20005

In re application of Greg Moore et al. Application No. 11/047,868 Filed: February 2, 2005 For: ENCAPSULATED END CAPS AND METHOD OF MAKING THE SAME FOR A WRITING BOARD TRAY	:	**DECISION ON PETITION TO MAKE SPECIAL (ACCELERATED EXAMINATION)**

This is in response to the petition filed on April 26, 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 no directed to a single invention; (C) a statement that a pre-examination search was made listing the field of search; (D) one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and (E) a detailed discussion of how the claimed subject matter is patentable over the references in accordance with 37 CFR 1.111 (b) and (c).

Since all of the requirements for special status under MPEP § 708.02 VIII have been met, the petition is **GRANTED**.

The examiner is directed (1) to make an interference search for possible interfering applications, (2) to promptly examine this application out of turn, and (3) if any interfering application is discovered, to examine such application simultaneously and state in the first official letter of such application that it is being taken out of turn because of a possible interference.

Petitioner is advised that this application will continue to be special, throughout its entire prosecution and pendency, including interference or appeal, if any, only if petitioner makes a prompt ***bona fide*** effort, in response to each Office action, to place the application in condition for allowance, even if it is necessary to conduct an interview with the examiner to accomplish this purpose.

SUMMARY: Petition to Make Special **GRANTED.**

Steven N. Meyers
Special Programs Examiner
Technology Center 3600
(571) 272-6611

SNM/dew: 5/9/05

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MICHAEL N. HAYNES
1341 HUNTERSFIELD CLOSE
KESWICK, VA 22947

Mail Date: 04/21/2010

Applicant	: Henry Wilmore Cox JR.	: DECISION ON REQUEST FOR
Patent Number	: 7662294	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,879	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **432** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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CROWE & DUNLEVY, P.C.
20 NORTH BROADWAY
SUITE 1800
OKLAHOMA CITY, OK 73102-8273

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AUG 3 1 2005

OFFICE OF PETITIONS

In re Application of:	:	
Garrett et al.	:	
Application No. 11/047,886	:	DECISION DISMISSING
Filed: February 1, 2005	:	PETITION UNDER
For: EQUIPMENT IDENTIFICATION,	:	37 CFR 1.47(a)
TRACKING AND FAILURE ANALYSIS	:	
PROCESS	:	

This is in response to the Petition Under 37 CFR § 1.47(a), filed August 18, 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)"; should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor, AND BE ADDRESSED TO Attorney Derek L. Woods. 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 February 1, 2005, without, a fully executed oath or declaration. The Office mailed a Notice to File Missing Parts of Nonprovisional Application, on March 17, 2005, requiring *inter alia*, a properly signed oath or declaration.

Applicant files the instant petition in response to the Notice and provides that the application, declaration and assignment documents were mailed via certified mail to the nonsigning inventor's last known place of residence, and returned by the United States Postal Service ("USPS") because the nonsigning inventor no longer resided at the last known address and the USPS forwarding order had expired. Applicant states that they

have no record of the nonsigning inventor's new address, and conclude that "[a]lthough diligent efforts have been made to contact the nonsigning inventor, the nonsigning inventor cannot be located." *Statement of Facts in Support of Filing on Behalf of Nonsigning Inventor* at p.2.

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) set forth above.

As to item (1), applicant is advised that, where an inventor is unavailable (cannot be reached), while it is not required that the application be mailed, Petitioner must establish the exercise of diligent effort in trying to find or reach the nonsigning inventor. A statement of facts should be submitted from a person with first hand knowledge of the facts relied upon that fully describes the exact facts which are relied on to establish that a diligent effort was made to locate the inventor. *See*, MPEP § 409.03(d).

Here, Applicant's provide that they mailed the application to the last known address of the nonsigning inventor, and conclude that diligent efforts have been made.

At the very least, an Internet search, or a search of telephone directories should be undertaken of the regions where it is suspected the non-signing inventor may reside. Copies of the results of such searches must be referred to in any renewed petition. It is important that the forthcoming communication contain statements of fact as opposed to conclusions. *See*, MPEP § 409.03(d).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3232.

Derek L. Woods
Attorney
Office of Petitions

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COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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SUITE 1800
OKLAHOMA CITY, OK 73102-8273

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DEC 21 2005

OFFICE OF PETITIONS

In re Application of:	:	
Garrett et al.	:	
Application No. 11/047,886	:	DECISION DISMISSING
Filed: February 1, 2005	:	PETITION UNDER
For: EQUIPMENT IDENTIFICATION,	:	37 CFR 1.47(a)
TRACKING AND FAILURE ANALYSIS	:	
PROCESS	:	

This is in response to the Request for Reconsideration of Petition Under 37 CFR § 1.47(a), filed November 30, 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, Ryan Decker, 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 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
Office of the Deputy Commissioner
for Patent Examination Policy

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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE WI 53202

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OFFICE OF PETITIONS

In re Application of	:	
Atkinson, et al.	:	
Application No. 11/047,896	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. 1440-00010	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 3, 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 September 27, 2005. Accordingly, this application became abandoned on December 28, 2005. The filing of the instant petition precedes the mailing of a Notice of Abandonment.

Applicants has\ve 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 August 25, 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.

E. Shirene Willis
Senior Petitions Attorney
Office of Petitions

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BANNER & WITCOFF, LTD.
TEN SOUTH WACKER DRIVE
SUITE 3000
CHICAGO, IL 60606

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OFFICE OF PETITIONS

In re Application of	:	
Stephen Hardy et al	:	
Application No. 11/047,915	:	DECISION ON PETITION
Filed: February 1, 2005	:	TO MAKE SPECIAL UNDER
Attorney Docket No. 011610.00105	:	37 CFR 1.102(d)
	:	

This is a decision on the petition under 37 CFR §1.102(d), filed June 26, 2006, to make the above-identified application special based on actual infringement as set forth in M.P.E.P. § 708.02, Section II.

The petition is **GRANTED.**

A grantable petition to make an application special under 37 CFR §1.102(d) and MPEP §708.02, Section II: Infringement, must be accompanied by the required fee pursuant to 37 CFR 1.17(h) and a statement by the applicant, assignee, or attorney/agent registered to practice before the office alleging:

> (A) That there is an infringing device or product actually on the market or method in use;
>
> (B) That a rigid comparison of the alleged infringing device, product, or method with the claims of the application has been made, and that, in his or her opinion, some of the claims are unquestionably infringed; and
>
> (C) That he or she has made or caused to be made a careful and thorough search of the prior art or has a good knowledge of the pertinent prior art.
>
> Applicant must provide one copy of each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record.

The petition complies with all the above stated requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at 571-272-3210.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

The application is being forwarded to the Technology Center Art Unit 3634 for action on the merits commensurate with this decision.

David Bucci
Petitions Examiner
Office of Petitions

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MARSHALL, GERSTEIN & BORUN LLP (MICROSOFT)
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO, IL 60606

Mail Date: 04/21/2010

Applicant	: Joern Lindhard Mortensen	: DECISION ON REQUEST FOR
Patent Number	: 7584414	: RECALCULATION of PATENT
Issue Date	: 09/01/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/047,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **524** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(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
11/047,926	02/01/2005	2651	1130	88580KNM	3	19	2

CONFIRMATION NO. 6782

CORRECTED FILING RECEIPT

OC000000015924121

Paul A. Leipold
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester, NY 14650-2201

Date Mailed: 05/02/2005

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)

Theodore K. Ricks, Rochester, NY;
Robert G. Capurso, Bergen, NY;
David M. Johnson, West Henrietta, NY;
Domenic Maiola, Rochester, NY;

Power of Attorney: The patent practitioners associated with Customer Number **01333**.

Domestic Priority data as claimed by applicant

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 US11/047,926

Projected Publication Date: 08/03/2006

Non-Publication Request: No

Early Publication Request: No

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Title

Indexing writehead for bistable media

Preliminary Class

360

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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ALEXANDRIA, VA 22313-1450
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DAVID P. LHOTA, ESQ.
STEARNS WEAVER WEISSLER ALHADEFF & SITTERSON, P.A.
NEW RIVER CENTER
200 EAST LAS OLAS BOULEVARD, SUITE 2100
FORT LAUDERDALE, FL 33301

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MAY 30 2007

OFFICE OF PETITIONS

In re Application of	:	
Saverio Scalzi	:	
Application No. 11/047,929	:	DECISION ON PETITION
Filed: February 1, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 5186.001	:	

This is a decision on the petition, filed January 29, 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 indicates that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on December 2, 2005. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

(1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
(2) the petition fee as set forth in 37 CFR 1.17(m); and
(3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of September 6, 2007 accompanies this decision on petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204.

This application is being referred to Technology Center Art Unit 3751.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING/RECEIPT DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
11/047,929	02/01/2005	Saverio Scalzi	5186.001

CONFIRMATION NO. 6777

27325
DAVID P. LHOTA, ESQ.
STEARNS WEAVER WEISSLER ALHADEFF & SITTERSON, P.A.
NEW RIVER CENTER
200 EAST LAS OLAS BOULEVARD, SUITE 2100
FORT LAUDERDALE, FL 33301

Date Mailed: 05/29/2007

Communication Regarding Rescission Of Nonpublication Request and/or Notice of Foreign Filing

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 09/06/2007.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"[1] then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282. Questions regarding publications of patent applications should be directed to the patent application publication hotline at (703) 605-4283 or by e-mail pgpub@uspto.gov.

[1] Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/047,945	01/31/2005	2131	2250	080398.P414C	25	45	3

CONFIRMATION NO. 6793

CORRECTED FILING RECEIPT

OC000000015903018

08791
BLAKELY SOKOLOFF TAYLOR & ZAFMAN
12400 WILSHIRE BOULEVARD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

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)

L. Michael Maritzen, Fremont, CA;
Harold Aaron Ludtke, San Jose, CA;

Power of Attorney:

Edwin Taylor–25129
James Scheller Jr–31195
Lester Vincent–31460
Michael Bernadicou–35934
Michael Mallie–36591
Sheryl Holloway–37850
Judith Szepesi–39393
Jordan Becker–39602
Marina Portnova–45750
Stephen De Klerk–46503

Domestic Priority data as claimed by applicant

This application is a CON of 09/733,318 12/08/2000

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/047,945

Projected Publication Date: To Be Determined - pending completion of Missing Parts

Non-Publication Request: No

Early Publication Request: No

Title

System and method for facilitating real time transactions between a user and multiple entities

Preliminary Class

713

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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Ernest E. Helms
5589 Abington Rd
W. Bloomfield, MI 48322

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SEP 15 2006

OFFICE OF PETITIONS

In re Application of

Timothy Allen Simpson

Application No. 11/047,950

Filed: January 31, 2005

Attorney Docket No.

DECISION ON PETITION

This is a decision on the petition under 37 CFR §1.137(b), April 11, 2006, to revive the above-identified application.

The petition is **granted**.

This application became abandoned for failure to timely remit the issue fee of $700.00 and publication fee as required by the Notice of Allowance and Issue Fee Due (the "Notice") mailed January 14, 2006. The Notice set forth a three (3) month statutory period for reply. No response was received within the allowable period. Accordingly, this application became abandoned on April 15, 2006.

The issue fee and publication fee were received on April 11, 2006.

Form PTOL-85B, filed April 11, 2006, is noted and made of record.

The application is being directed to the Office of Patent Publications for further processing.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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MORRISON & FOERSTER LLP
555 West Fifth Street
Suite 3500
Los Angeles, CA 90013-1024

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SEP 2 9 2006
OFFICE OF PETITIONS

In re Application of	:	
McCullough, et al.	:	
Application No. 11/047,953	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 297912005400	:	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 **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The Office cannot approve the request at this time since the reasons provided do not meet any of the conditions under the mandatory or permissive categories enumerated in 37 CFR 10.40. Section 10.40 of Title 37 of the Code of Federal Regulation states, "[a] practitioner shall not withdraw from employment in a proceeding before the Office without permission from the Office[.]" More specifically, 37 CFR 10.40 states, "[i]f paragraph (b) of this section is not applicable, a practitioner may not request permission to withdraw in matter pending before the Office unless such request or such withdrawal is" for one the permissive reasons listed in 37 CFR 10.40(c). The reasons set forth in the request, "Application transferred to another firm," 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.

Telephone inquiries concerning this decision should be directed to Patricia Volpe at 571-272-6825.

for David Bucci
Petitions Examiner
Office of Petitions

cc: PROSKAUER ROSE LLP
1001 Pennsylvania Avenue, N.W.
Suite 400 South
Washington, D.C. 20036-2396

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Morrison & Foerster, LLP
555 West Fifth Street
Suite 3500
Los Angels, CA 90013-1024

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AUG 20 2008

In re Application of	:	
Adam B. McCullough, et al.	:	
Application No. 11/047,953	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 289-PDD-04-09 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 April 22, 2008.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster, LLP has been revoked by the assignee of the patent application on November 6, 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: **Proskauer Rose LLP**
1001 Pennsylvania Ave., N.W.
Suite 400 South
Washington, DC 20004

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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VIERRA MAGEN/MICROSOFT CORPORATION
575 MARKET STREET, SUITE 2500
SAN FRANCISCO, CA 94105

Mail Date: 07/23/2010

Applicant	: Eliot C. Gillum	: DECISION ON REQUEST FOR
Patent Number	: 7647380	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/047,954	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 01/31/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **1112** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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WAGNER, ANDERSON & BRIGHT, LLP
3541 OCEAN VIEW BLVD
GLENDALE CA 91208

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OFFICE OF PETITIONS

In re Application of

Gerald A. Niznick

Application No. 11/047,960

Filed: February 1, 2005

Attorney Docket No. D9471

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed August 6, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to file a proper response in a timely manner to the final Office action mailed November 29, 2006, which set a shortened statutory period for reply of three (3) months. An amendment was filed on May 30, 2007, with a request for an extension of time within the third month. An Advisory Action mailed June 19, 2007, informed applicant that the amendment failed to place the application in condition for allowance. No further responses were received within the allowable period. The application became abandoned on May 30, 2007. A Notice of Abandonment was mailed on June 25, 2007.

The Request for Continued Examination filed August 6, 2007, is noted and made of record.

The application is being forwarded to Technology Center 3700, GAU 3732 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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Paper No.

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO IL 60610

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OFFICE OF PETITIONS

In re Application of	:	
Kadowaki et al.	:	
Application No. 11/047,970	:	LETTER REGARDING
Filed: January 31, 2005	:	PATENT TERM ADJUSTMENT
Atty Docket No. 12062-30	:	

This letter is in response to the "REQUEST FOR REVIEW OF PATENT TERM ADJUSTMENT" filed October 23, 2008. Pursuant to their duty of good faith and candor to the Office, applicants disclose that the initial determination of patent term adjustment of four hundred twenty-one (421) days may be longer than appropriate.

The request for correction of the initial determination of patent term adjustment (PTA) is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is four hundred one **(401)** days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On July 24, 2008, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 421 days. Applicants point out that a reduction should be entered for the supplemental Information Disclosure Statement (IDS) filed July 1, 2008.

A review of the record confirms that a period of reduction should have been entered for the filing of the IDS on July 1, 2008. 37 CFR 1.704 (c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

> (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

In this instance, in response to the Notice of Allowance mailed March 11, 2008, on June 11, 2008, applicants filed a request for continued examination (RCE), in lieu, of payment of the issue fee in response. Thereafter, on July 11, 2008, applicants filed the IDS. The IDS was not expressly requested by the examiner and did not include a §1.704(d) statement. Accordingly, pursuant to § 1.704(c)(8), an additional period of reduction of 20 days should have been entered.

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the notice of allowance is four hundred one (401) days.

As this letter was submitted as an advisement to the Office of an error in applicants' favor, the Office will not assess the $200.00 fee under 37 CFR 1.18(e). The Office thanks applicants for their good faith and candor in bringing this to the attention of the Office.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded to the Office of Data Management for issuance of the application. 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.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of revised PALM Screen

Day : Wednesday

PALM INTRANET

Date: 2/4/2009
Time: 20:47:08

PTA Calculations for Application: 11/047970			
Application Filing Date:	01/31/2005	PTO Delay (PTO):	468
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	47
Post-Issue Petitions:	0	Total PTA (days):	401
PTO Delay Adjustment:	-20		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
67	02/04/2009	ADJUSTMENT OF PTA CALCULATION BY PTO		20	
53	07/24/2008	MAIL NOTICE OF ALLOWANCE			
52	07/23/2008	ISSUE REVISION COMPLETED			
51	07/23/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
50	07/23/2008	DOCUMENT VERIFICATION			
49	07/21/2008	NOTICE OF ALLOWABILITY			
48	07/01/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
47	07/01/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
43	06/11/2008	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
42	06/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
41	06/29/2008	DATE FORWARDED TO EXAMINER			
40	06/11/2008	REQUEST FOR CONTINUED EXAMINATION (RCE)			
39	06/29/2008	DISPOSAL FOR A RCE/CPA/129 (EXPRESS ABANDONMENT IF CPA)			
38	06/11/2008	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
37	06/11/2008	WORKFLOW - REQUEST FOR RCE - BEGIN			
36	04/24/2008	FINISHED INITIAL DATA CAPTURE			
35	04/15/2008	WORKFLOW - QUERY REQUEST - FINISH			
34	04/09/2008	TC RETURN TO PUBS			
33	03/26/2008	PUBS CASE REMAND TO TC			
32	04/03/2008	WORKFLOW - QUERY REQUEST - BEGIN			

31	04/03/2008	WORKFLOW - QUERY REQUEST - BEGIN			
30	04/02/2008	WORKFLOW - QUERY REQUEST - FINISH			
29	03/17/2008	EXPORT TO INITIAL DATA CAPTURE			
28	03/11/2008	MAIL NOTICE OF ALLOWANCE			
27	03/05/2008	ISSUE REVISION COMPLETED			
26	03/05/2008	DOCUMENT VERIFICATION			
25	03/05/2008	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
24	03/03/2008	NOTICE OF ALLOWABILITY			
23	11/28/2007	NEW OR ADDITIONAL DRAWING FILED			
22	12/27/2007	DATE FORWARDED TO EXAMINER			
21	11/28/2007	RESPONSE AFTER NON-FINAL ACTION		47	19
20	11/28/2007	REQUEST FOR EXTENSION OF TIME - GRANTED			
19	07/12/2007	MAIL NON-FINAL REJECTION	468		-1
18	07/09/2007	NON-FINAL REJECTION			
17	01/31/2005	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
16	05/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
15	05/16/2007	CASE DOCKETED TO EXAMINER IN GAU			
14	01/25/2007	CASE DOCKETED TO EXAMINER IN GAU			
13	12/12/2006	CASE DOCKETED TO EXAMINER IN GAU			
12	05/16/2005	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
11	05/16/2005	CASE DOCKETED TO EXAMINER IN GAU			
10	01/31/2005	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
9.7	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
9	01/31/2005	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
8	01/31/2005	REFERENCE CAPTURE ON IDS			
7	03/09/2005	APPLICATION RETURN FROM OIPE			
6	03/09/2005	APPLICATION RETURN TO OIPE			
5	03/08/2005	APPLICATION DISPATCHED FROM OIPE			
4	03/09/2005	APPLICATION IS NOW COMPLETE			
3	02/25/2005	CLEARED BY OIPE CSR			
2	02/16/2005	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	01/31/2005	INITIAL EXAM TEAM NN			

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NEUSTEL LAW OFFICES, LTD.
2534 SOUTH UNIVERSITY DRIVE
SUITE 4
FARGO ND 58103

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In re Application of	:	
DAVIS, Robert J. et al.	:	
Application No. 11/047,980	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. **DAVI-017**	:	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 07, 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 Michael Neustel 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 first named inventor Robert J. Davis at the address indicated below.

There is an outstanding Office action mailed September 04, 2008 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ROBERT DAVIS**
10925 SHIRE COURT
GRASS VALLEY, CA 95949

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CHOATE, HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of	:	
Winterbottom, Belaney, Knaack,	:	
Boyce, Shimp, Lee, Kaes, and	:	DECISION ACCORDING STATUS
Burel	:	UNDER 37 CFR 1.47(a)
Application No. 11/047,982	:	
Filed: 31 January, 2005	:	
Atty Docket No. 2004367-0054	:	

This is in response to the petition filed under 37 CFR 1.47(a) on 30 September, 2005 (certificate of mailing date 27 September, 2005).

The petition is **GRANTED**.

Petitioners have shown that the non-signing inventor, Marc Henry Burel, has refused to review the sign the declaration after having been sent a copy of the application. Specifically, petitioners have shown that a copy of the application papers were sent to the non-signing inventor's counsel, but that the non-signing inventor failed to sign and return the declaration naming him as a joint inventor along with John Winterbottom, Ryan Belaney, David Knaack, Todd Boyce, Lawrence Shimp, Samuel Lee, and David Kaes.

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*.

The application is being referred to Technology Center Art Unit 1651 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

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DIW Oct-05

Marc Henry Burel
6 James Terrace
Towaco NJ 07082

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OCT 17 2005

OFFICE OF PETITIONS

In re Application of
Winterbottom et al.
Application No. 11/047,982
Filed: 31 January, 2005
For: STACKING IMPLANTS FOR SPINAL FUSION

Dear Mr. Burel:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the undersigned at 571/272-3231. Requests for information regarding your application should be directed to the File Information Unit at 703/308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at 703/308-9726 or 1-800-972-6382 (outside the Washington D.C. area).

D Wood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110

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OFFICE OF PETITIONS

PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

In re Application of	:	
Mark Jeffrey Hood et al	:	
Application No. 11/047,986	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 1970	:	

This is a decision on the petition, filed August 4, 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 July 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1638 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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APPL NO.	FILING OR 371 (c) DATE	ART UNIT	FIL FEE REC'D	ATTY.DOCKET NO	DRAWINGS	TOT CLMS	IND CLMS
11/048,004	02/01/2005	1743	1200	SOMM / 03C	7	20	4

CONFIRMATION NO. 6511

CORRECTED FILING RECEIPT

OC000000016136508

26875
WOOD, HERRON & EVANS, LLP
2700 CAREW TOWER
441 VINE STREET
CINCINNATI, OH 45202

Date Mailed: 05/26/2005

Receipt is acknowledged of this regular Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please mail to the Commissioner for Patents P.O. Box 1450 Alexandria Va 22313-1450. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).**

Applicant(s)

Paul Francis Day, Surrey, UNITED KINGDOM;

Assignment For Published Patent Application

Advanced Biotechnologies Limited

Power of Attorney: None

Domestic Priority data as claimed by applicant

This application is a CON of 09/995,871 11/29/2001 PAT 6,884,397

Foreign Applications

UNITED KINGDOM GB0029085.8 11/29/2000

If Required, Foreign Filing License Granted: 04/26/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is US11/048,004

Projected Publication Date: 09/01/2005

Non-Publication Request: No

Early Publication Request: No

BEST AVAILABLE COPY

Title

Sample tube assemblies and methods of constructing such sample tube assemblies

Preliminary Class

422

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Office of Export Administration, Department of Commerce (15 CFR 370.10 (j)); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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OFFICE OF PETITIONS

ORUM & ROTH LLC
53 WEST JACKSON BLVD.
CHICAGO, IL 60604

In re Application of	:	
John T. Novak	:	
Application No. 11/048,031	:	DECISION ON PETITION
Filed: January 28, 2005	:	TO WITHDRAW
Attorney Docket No. 14029	:	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 **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, "I will no longer be associated with the firm Orum & Roth LLC", 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.

There is an outstanding Office action mailed September 12, 2006 that requires a reply by 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

UNITED STATES PATENT AND TRADEMARK OFFICE

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ORUM & ROTH LLC
53 WEST JACKSON BLVD.
CHICAGO, IL 60604

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OFFICE OF PETITIONS

In re Application of
John T. Novak
Application No. 11/048,040
Filed: January 28, 2005
Attorney Docket No. 14071

DECISION ON PETITION TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 16, 2006

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Catherine L. Gemrich on behalf of herself.

Catherine Gemrich has been withdrawn as attorneys or agents of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

There is an outstanding Office action mailed February 12, 2008 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

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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GREENBERG & LIEBERMAN, LLC
2141 WISCONSIN AVE., N.W.
SUITE C-2
WASHINGTON DC 20007

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JUN 24 2008

OFFICE OF PETITIONS

In re Application of	:	
Brois J. Muchnik	:	
Application No. 11/048,042	:	DECISION GRANTING PETITION
Filed: January 31, 2005	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 2304-01214/2005a	:	

This is a decision on the petition under 37 CFR 1.137(b), filed October 8, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Nonfinal Rejection mailed August 7, 2006, is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

This matter is being referred to Technology Center AU 2886.

Karen Creasy
Petitions Examiner
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

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GAITHERSBURG MD 20878

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OFFICE OF PETITIONS

In re Application of :
Furukawa, et al. :
Application No. 11/048,043 : DECISION
Filed: 31 January, 2005 :
Attorney Docket No. JP9-2004-0165-US1 :

This is a decision on the petition filed on 12 November, 2008, supplemented thereafter and considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision should be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness and showing requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has not satisfied the showing (statement/showing and documentary) requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation). (*See*: MPEP §711.03(c)(I).)

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice of Non-Compliant Amendment mailed on 4 December, 2007, with reply due absent extension of time on or before 4 January, 2008.

The application went abandoned by operation of law after midnight 4 January, 2008.

The Office mailed the Notice of Abandonment on 30 September, 2008.

On 12 November, 2008, Petitioner filed a petition (supplemented in part on 8 December, 2008, with a properly s-signed version) averring, *inter alia*, non-receipt, and sought withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181, but does not seem to have satisfied the showing required herein as set forth at MPEP 711.03(c)(I)—including but not limited to the statement of search and non-discovery, the description as to the docketing and/or calendaring system and its reliability, and required documentary support of the docket sheet (or file jacket cover) of the instant application and the due date calendar for the reply in question. After a telephone discussion with Petitioner on 9 December, 2008, it appears that Petitioner's docketing/calendaring system is structured differently than foreseen in the Commentary at MPEP 711.03(c)(I), and this will require Petitioner to present her showing in a way that complies with the requirements while respecting the nature and elements of her office's practice. The discussion at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log;

calendar; reminder system; or the individual docket record for the application in question.[1]

***

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation– since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner failed to make the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

---

1 *See*: MPEP §711.03(c) (I)(A).

2 See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[3]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

[3] The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.
All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

UNITED STATES PATENT AND TRADEMARK OFFICE

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LIEBERMAN
& BRANDSDORFER, LLC
802 STILL CREEK LANE
GAITHERSBURG MD 20878

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MAR 09 2009

OFFICE OF PETITIONS

In re Application of :
Furukawa, et al. :
Application No. 11/048,043 : DECISION
Filed: 31 January, 2005 :
Attorney Docket No. JP9-2004-0165-US1 :

This is a decision on the petition filed on 29 January, 2009, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **GRANTED**.

As to the Request to Withdraw
the Holding of Abandonment

Petitioners always are directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181. Petitioners must, *inter alia*, provide statements and documentary support as set forth in the Commentary at MPEP §711.03(c)(I)—*and with particularity to the requirements therein including statements of non-receipt at the address of record, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. (Further, the regulations at 37 C.F.R. §1.181 require that a Petitioner seek relief thereunder within two (2) months of the act complained of.)*

BACKGROUND

The record reflects as follows:

Petitioner failed to reply to the Notice of Non-Compliant Amendment (copy enclosed) mailed on 4 December, 2007, with reply due absent extension of time on or before 4 January, 2008.

The application went abandoned by operation of law after midnight 4 January, 2008.

The Office mailed the Notice of Abandonment on 30 September, 2008.

On 12 November, 2008, Petitioner filed a petition (supplemented in part on 8 December, 2008, with a properly s-signed version) averring, *inter alia*, non-receipt, and sought withdrawal of the holding of abandonment pursuant to 37 C.F.R. §1.181, but does not seem to have satisfied the showing required herein as set forth at MPEP 711.03(c)(I)—including but not limited to the statement of search and non-discovery, the description as to the docketing and/or calendaring system and its reliability, and required documentary support of the docket sheet (or file jacket cover) of the instant application and the due date calendar for the reply in question. After a telephone discussion with Petitioner on 9 December, 2008, it appears that Petitioner's docketing/calendaring system is structured differently than foreseen in the Commentary at MPEP 711.03(c)(I), and this will require Petitioner to present her showing in a way that complies with the requirements while respecting the nature and elements of her office's practice. The discussion at MPEP 711.03(c)(I) provides in pertinent part:

***

> The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.
>
> Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.
>
> A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.[1]

***

[1] *See*: MPEP §711.03(c) (I)(A).

Thus, the petition was dismissed on 15 December, 2008.

On 29 January, 2008, Petitioner filed a petition averred non-receipt of the Notice, provided a discussion of and with particularity to the requirements therein including statements of non-receipt, search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. *It appears that Petitioner's statement varies slightly from what is required and as a precaution the Office notes that Petitioner's statement is construed specifically to include a statement of non-receipt at the address of record, in addition to that of search and non-discovery, with a description of docketing system and a statement of its reliability, and support for those the statements with copies of the docket record/file jacket cover and due date calendar/docket. If Petitioner's appreciation of the facts is other than this statement, Petitioner* ***must*** *immediately notify the Office.*

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (see: 37 C.F.R. §1.181(f)), and that those registered to practice and all others who make representations before the Office must inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation–since all owe to the Office the continuing duty to disclose.[2]

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.[3],[4]

---

[2] See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

[3] See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

[4] The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter.

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Allegations as to the Request to
Withdraw the Holding of Abandonment

The record evidences a satisfactory presentation of the showing requirements under the Rule.

CONCLUSION

The petition as considered under 37 C.F.R. §1.181 is **granted**, and the 30 September, 2008, Notice of Abandonment is **vacated**.

The instant application is released to the Technology Center/AU 2166 for further processing as necessary in due course—*specifically to include the re-mailing of the 4 December, 2007, Notice of Non-Compliant Amendment.*

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to that change in status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2[5]) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

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.))

[5] The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

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Global IP Counselors, LLP
1233 20th Street, NW
Suite 700
Washington, D.C. 20036-2680

In re Application of	:	**DECISION ON REQUEST TO**
Atsushi KAWAKAMI *et. al.*	:	**PARTICIPATE IN PATENT**
Application No. 11048054	:	**PROSECUTION HIGHWAY**
Filed: February 2, 2005	:	**PILOT PROGRAM AND PETITION**
Attorney Docket No. SE-US045288	:	**TO MAKE SPECIAL UNDER**
For: DECORATIVE ARTICLE, METHOD OF MANUFACTURING SAME, AND TIMEPIECE	:	**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 April 24, 2007, to make the above-identified application special.

The request and petition are **GRANTED**.

A grantable request to participate in the PPH pilot program and petition to make special require:

(1) The U.S. application must validly claim priority under 35 U.S.C. 119(a) to one or more applications filed in the JPO;
(2) Applicant must submit a copy of the allowable/patentable claim(s) from the JPO application(s) along with an English translation thereof and a statement that the English translation is accurate;
(3) All the claims in the U.S. application must sufficiently correspond or be amended to sufficiently correspond to the allowable/patentable claim(s) in the JPO application(s);
(4) Examination of the U.S. application has not begun;
(5) Applicant must submit a copy of all the office actions from each of the JPO application(s) containing the allowable/patentable claim(s) along with an English translation thereof and a statement that the English translation is accurate;
(6) Applicant must submit an IDS listing the documents cited by the JPO examiner in the JPO office action along with copies of documents except U.S. patents or U.S. patent application publications; and
(7) The required petition fee under 37 CFR 1.17(h).

The request to participate in the PPH pilot program and petition comply with the above requirements. Accordingly, the above-identified application has been accorded "special" status.

Telephone inquiries concerning this decision should be directed to Christine Oda at 571-272-1602.

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.

/C. Oda/
Christine Oda
TQAS
Technology Center 2800 - Semiconductors,
Electrical & Optical Systems & Components

UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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VENABLE LLP
P.O. BOX 34385
WASHINGTON, DC 20043-9998

Mail Date: 04/21/2010

Applicant	: Gunther Silberbauer	: DECISION ON REQUEST FOR
Patent Number	: 7568685	: RECALCULATION of PATENT
Issue Date	: 08/04/2009	: TERM ADJUSTMENT IN VIEW
Appliction No	: 11/048,065	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/02/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **228** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

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Mark A. Superko, Esq.
Varian Semiconductor Equipment Associates, Inc.
35 Dory Road
Gloucester, MA 01930

Mail Date: 04/26/2010

Applicant	: Morgan Evans	: DECISION ON REQUEST FOR
Patent Number	: 7585141	: RECALCULATION of PATENT
Issue Date	: 09/08/2009	: TERM ADJUSTMENT IN VIEW
Application No	: 11/048,093	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 02/01/2005	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **449** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.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 : 05-12-09

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/048123 Patent No.: 7369386

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

A Green

Angela Green
Certificates of Correction Branch
703-756-1541

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:

The items for which Correction is Sought are of a typographical nature, and do not Constitute new matter or require examination. Hence correction approved.

Renford Barnie — SPE
2836 — Art Unit

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FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

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SEP 18 2007

OFFICE OF PETITIONS

Applicant: Peiqi Jeng
Appl. No.: 11/048,136
Filing Date: February 1, 2005
Title: PROCESS FOR APPLYING A COATING ONTO A SURFACE OF A LENS SUBSTRATE
Attorney Docket No.: ESSR:089US
Pub. No.: 2006/0169407 A1
Pub. Date: August 3, 2006

This is a decision on the request for corrected of patent application publication under 37 CFR 1.221(b), received on August 28, 2006, for the above-identified application.

The request is granted.

The corrected patent application publication will be published in due course, unless the patent issues before the application is republished.

The amendment received by the Office on May 15, 2005, which was improperly scanned into this application and published has been removed from the application file.

Inquiries relating to this matter may be directed to Mark O. Polutta at (703) 272-7709 (voice).

Mark O. Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/048,139	01/31/2005	Cyril Brignone	200405350-1	6266

7590 04/21/2008
HEWLETT PACKARD COMPANY
P O BOX 272400, 3404 E. HARMONY ROAD
INTELLECTUAL PROPERTY ADMINISTRATION
FORT COLLINS, CO 80527-2400

EXAMINER
BARRON JR, GILBERTO

ART UNIT	PAPER NUMBER
2132	

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.

Nina Farmer

Patent Publication Branch
Office of Data Management

Adjustment date: 04/21/2008 DTERRY
03/08/2005 MBELETE1 00000039 082025 11048139
03 FC:1111 500.00 CR
04 FC:1201 1000.00 CR
05 FC:1202 800.00 CR

FORM PET651G (Rev. 08/07)

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SALT LAKE CITY, UT 84110

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OFFICE OF PETITIONS

In re Application of	:	
NICKOLAS, et al.	:	
Application No. 11/048,157	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No.	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 28, 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: **STEVEN NICKOLAS**
IMPACT BEVERAGES, INC
21851 N. 79TH PLACE
SCOTTSDALE, AZ 85255

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AUG 0 1 2007

OFFICE OF PETITIONS

In re Application of
NICKOLAS, et al.
Application No. 11/048,157
Filed: January 31, 2005
Attorney Docket No.

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 12, 2007.

The request is **APPROVED.**

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Allen C. Turner on behalf of all attorneys of record. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Steve Nickolas 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: **STEVE NICKOLAS**
IMPACT BEVERAGES, INC.
21851 N. 79TH PLACE
SCOTTSDALE, AZ 85255

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OFFICE OF PETITIONS

General Electric Company
GEGR Patent Docket Rm.
Bldg. K-1 Rm. 4A59
One Research Circle
Niskayuna, NY 12309

In re Application of
Huber, et al.
Application No. 11/048,159
Filed: February 1, 2005
Attorney Docket No. 155760-2

DECISION GRANTING PETITION

This is a decision on the petition filed March 21, 2005, to vacate the "Notice of Incomplete Application (the "Notice").

The petition is **granted**.

On February 1, 2005, the above-identified application was filed. However, on March 10, 2005, the Office of Initial Patent Examination mailed the Notice stating that application had not been accorded a filing date because the application was deposited without drawings although drawings appeared to be necessary for the understanding of the invention claimed. The Notice set a two-month period for reply.

In response, on March 21, 2005, applicant filed the present petition, a copy of the informal drawings, and an Office date-stamped postcard receipt acknowledging receipt of 8 sheets of the drawings, among other items.

Upon review of the record, 8 sheets of drawings were not located among the application papers. However, the evidence is convincing that the application papers deposited February 1, 2005, included 8 sheets of drawings, which was subsequently misplaced by the Office. Therefore, the application, including the 8 sheets of informal drawings, was complete on filing and entitled to a filing date of February 1, 2005, as part of the original disclosure.

Accordingly, the petition is granted; the Notice is vacated, accordingly. The petition fee of $400.00 will be refunded to deposit account 07-0868, in due course.

The application file is being returned to the Office of Initial Patent Examination for further processing with a filing date of February 1, 2005, using the 8 sheets of informal drawings filed on that date. The Office of Initial Patent Examination is directed to issue a Filing Receipt reflecting a filing date of February 1, 2005.

The formal drawings filed March 21, 2005, are noted.

In re Application of Huber, et al.
11/048/,159

Any inquiries related to this decision should be directed to the undersigned at (571) 272-3222.

Kenya A. McLaughlin

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

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DIW Feb-08

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VALLEY FORGE PA 19482

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FEB 2 7 2008

OFFICE OF PETITIONS

In re Application of :
Silsby et al. :
Application Number: 11/048180 :
Filing Date: 02/01/2005 :
Attorney Docket Number: :
10050144-1 :

ON PETITION

This is a decision in reference to the "PETITION UNDER 37 CFR 1.181 TO WITHDRAW HOLDING OF ABANDONMENT" filed on January 10, 2008.

The petition is **DISMISSED**.

The application became abandoned on April 9, 2007, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on March 8, 2007, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on December 17, 2007.

Petitioner asserts, in pertinent part:

> On March 5, Examiner Luu telephoned current Applicant's counsel to inform him that two responses to the Final Office Action had been filed and requested instructions. Current Applicant's counsel conferred with prior Applicant's counsel. Current Applicant's counsel then telephoned Examiner Luu and asked him to enter amendment accompanying the Request for Continued Examination and to send a Notice of Non-Compliant amendment for the Amendment After Final Action filed by current Applicant's counsel. Current Applicant's current counsel informed Examiner Luu that this procedure result in the non-entry of the Amendment After Final Action without need for any further correspondence.
>
> ...
>
> Applicant asserts that, because the Examiner entered the amendment accompanying the Request for Continued Examination, the Amendment After Final Action should

> have been treated as a supplemental amendment. This treatment should have been afforded to the Amendment After Final Action because the amendment accompanying the Request for Continued Examination was fully responsive to the Final Office Action.
>
> Because the Amendment After Final Action should have been treated as a supplemental amendment, the proper course of action for failure to timely respond to the Notice of Noncompliant Amendment should have been not to enter the Amendment After Final Action, not to issue a Notice of Abandonment.

A review of the record reveals that on October 24, 2006, a final Office action was mailed to then counsel of record, Patrick G. Billig, Reg. No. 38,080, at Agilent Technologies, Inc.

On February 26, 2007, a Request for Continued Examination and amendment as the submission under 37 CFR 1.114 were filed by attorney Billig. A one (1) month extension of time was also filed.

Also on February 26, 2007, an amendment after final rejection was filed by attorney Kenneth Nigon, Reg. No. 31,549, of RatnerPrestia.

On February 27, 2007, a revocation and power of attorney to Kenneth Nigon, and the attorneys associated with Customer Number 68551 was filed.

Petitioners' argument, that no written response was needed to the Notice of Non-Compliant Amendment, has been carefully considered, but is not persuasive.

At the outset, it is noted that the Notice of Non-Compliant Amendment stated, in pertinent part:

> 1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the entire corrected amendment must be resubmitted.
>
> 2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the correction, if the non-compliant amendment is one of the following: a non-final

> amendment (including a submission for a request for continue examination (RCE) under 37 CFR 1.114…
>
> **Failure to timely respond** to this notice will result in:
>
> **Abandonment of the application** if the non-complaint amendment is a non-final amendment…
>
> **Non-entry** of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.
>
> (emphasis in original)

It is also noted that an Interview Summary is attached in which it states that the examiner agreed to send out a non-compliant amendment on the new firm's amendment. Applicant agreed to consult with the old firm for consistency, and either (1) go with the amendment from the old firm or (2) file a supplemental amendment that amends the claims based on the amendment from the old firm.

Here, the Interview Summary clearly stated the applicants were to inform the examiner what action they wished to take. However, the showing of record is that petitioners failed to file a reply thereto.

37 CFR 1.135 states, in pertinent part:

> (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.

37 CFR 1.2 states that all business with the Patent and Trademark Office should be transacted in writing. The action of the Patent

and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The showing of record is that the applicants failed to file a response to the Notice of Non-Compliant Amendment. While applicants apparently believed that no written response was necessary, it is clear from the Notice of Non-Compliant Amendment, and the Interview Summary attached thereto, that applicant was required to file some type of written response.

Simply put, the showing of record is that application was properly held abandoned for applicant's failure to timely respond to the Notice of Non-Compliant Amendment mailed on March 8, 2007. Abandonment takes place by operation of law for failure to timely submit a proper reply to an Office action.[1]

In summary, to the extent that petitioner's counsel believed that the examiner had agreed to withdraw the Notice of Non-Compliant amendment and/or take further action in the application, without a written reply from petitioners, there is no showing in the written record to support that allegation. As MPEP 711.03(c) states, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to: (A) the applicants' reliance upon oral advice from USPTO employees; or (B) the USPTO's failure to advise the applicants of any deficiency in sufficient time to permit the applicant to take corrective action.[2]

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.[3] Specifically, 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.[4]

---

[1] MPEP 711.03(c). See Lorenz v. Finkl, 333 F.2d 885, 889-90, 142 USPQ 26, 299-300 (CCPA 1964); Krahn v. Commissionerr, 15 USPQ2d 1823, 1824 (E.D. Va. 1990); In re Application of Fischer, 6 USPQ2d 1573, 1574 (Comm'r Pat. 1988).

[2] See In re Sivertz, 227 USPQ 255, 256 (Comm'r Pat. 1985).

[3] Link v. Wabash, 370 U.S. 626, 633-34 (1962).

[4] 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).

Petitioners are reminded that it is the obligation of the applicant to diligently prosecute his or her application.

As such, the showing of record is that the abandonment resulted from the failure of petitioners to file a timely and proper response to the Notice of Non-Compliant Amendment, rather than an error on the part of the USPTO.

As such the application is properly held abandoned.

The petition to withdraw the holding of abandonment is **dismissed**.

Petitioner may wish to consider filing a petition to revive under 37 C.F.R. 1.137(b).

Any request for reconsideration must be filed within **TWO (2) MONTHS** of the date of this decision. **This time period is not extendable.**[5]

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

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[5] 37 CFR 1.181(f).

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OFFICE OF PETITIONS

In re Application of	:	
Silsby et al.	:	
Application Number: 11/048180	:	ON PETITION
Filing Date: 02/01/2005	:	
Attorney Docket Number:	:	
10050144-1	:	

This is a decision on the petition filed on March 6, 2008, under 37 CFR 1.137(b),[1] to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned on April 9, 2007, for failure to timely respond to the Notice of Non-Compliant Amendment (37 CFR 1.121) mailed on March 8, 2007, which set a one (1) month shortened period for reply. Notice of Abandonment was mailed on December 17, 2007. The petition to withdraw the holding of abandonment filed on January 10, 2008, was dismissed on February 27, 2008.

Receipt of the amendment filed with the present petition is acknowledged.

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[1] Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional utility or plant application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continuing examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may required additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

The application is referred to Technology Center Art Unit 2878 for further processing.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3231.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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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2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614`1

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In re Patent No. 7193707	:	
Issue Date: 03/20/2007	:	
Application No. 11/048211	:	ON PETITION
Filed: 02/01/2005	:	
Attorney Docket No. KITO6.001AUS	:	

This is a decision on the petition filed on June 15, 2007, which is being treated as a request under 37 CFR 3.81(b)[1] to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3231. 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.

D Wood
Douglas Wood
Attorney
Office of Petitions

---

[1] *See* MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

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SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS TX 75252

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OFFICE OF PETITIONS

In re Application of	:	
Shwang-Ming Jeng	:	
Application No. 11/048,215	:	DECISION ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. TSM04-0867	:	

This is a decision on the petition under 37 CFR 1.182, filed, December 7, 2007, to correct the name of joint inventor "Shwang-Ming Cheng" to – Shwang-Ming Jeng --.

The petition is **GRANTED**.

Office records have been updated to reflect the inventor's name correction. A corrected Filing Receipt, which correctly reflects the inventor's name, accompanies this decision on petition.

As authorized, the $400 fee for the petition has been received.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3215. Any questions concerning the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2818 for appropriate action by the examiner in the normal course of business.

Charlema Grant

Charlema Grant
Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt

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United States Patent and Trademark Office
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY.DOCKET.NO	TOT CLAIMS	IND CLAIMS
11/048,215	02/01/2005	2818	1000	TSM04-0867	20	3

CONFIRMATION NO. 5915

CORRECTED FILING RECEIPT

43859
SLATER & MATSIL, L.L.P.
17950 PRESTON ROAD, SUITE 1000
DALLAS, TX 75252

OC000000027490168

Date Mailed: 12/31/2007

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Shwang-Ming Jeng, Hsin-Chu, TAIWAN;
Ming Ling Yeh, Tainan City, TAIWAN;
Tien-I Bao, Hsin-Chu, TAIWAN;
Keng-Chu Lin, Ping-Tung, TAIWAN;

Power of Attorney: The patent practitioners associated with Customer Number 43859

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 03/09/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/048,215**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

CxHy sacrificial layer for cu/low-k interconnects

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.

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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SPEAR TOWER, SUITE 2000
SAN FRANCISCO, CA 94105

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MAR 1 4 2005

OFFICE OF PETITIONS

In re Application of	:	
Callister et al.	:	
Application No. 11/048,237	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. R0371-01301	:	

This is a decision on the petition under 37 CFR §§ 1.78(a)(3), filed February 15, 2005, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 for the benefit of the prior-filed nonprovisional application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT**.

A petition under 37 CFR §§ 1.78(a)(3) is unnecessary as this time. As stated in 37 CFR 1.78(a)(2)(ii), a reference claiming the benefit of a prior-filed copending nonprovisional application must be submitted within the later of four months from the actual filing date of the later-filed application or sixteen months from the filing date of the prior-filed application. If the reference required by 35 U.S.C. 120 and paragraph (a)(2) of this section is presented *after* the time period specified above, a petition under 37 CFR 1.78(a)(3) would then be necessary. However, since a preliminary amendment was submitted with the instant petition on February 15, 2005, petitioner is still within the specified time period.

On a side note, the claim for priority as stated in the preliminary amendment is ambiguous. First, the nonprovisional application serial number includes an extra digit. Second, it is unclear whether petitioner wishes to claim benefit under 35 U.S.C. 120 to the nonprovisional application since a relationship is not stated. The relationship between the applications is whether the subject application is a continuation, divisional, or continuation-in-part of a prior-filed nonprovisional application. An example of a proper benefit claim is: "This application is a continuation of Application No. 10/---, filed---." A benefit claim that merely states: "This application claims the benefit of Application No. 10/---, filed---," does not comply with 37 CFR 1.72(a)(2)(i) since the proper relationship, which includes the type of continuing application, is not stated. Failure to timely provide the proper relationship and application number within the period specified by 37 CFR 1.78(a)(2)(ii) would necessitate the filing of a petition under 1.78(a)(3).

In view of the above, the $1370.00 petition fee is unnecessary and will not be charged to petitioner's deposit account as authorized.

Any questions concerning this decision on petition may be directed to Paralegal Liana Chase at (571) 272-3206. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Initial Patent Examination.

This matter is being referred to the Office of Initial Patent Examination for further processing. Afterwards, the matter will be referred to an Examiner of Technology Center AU 3731 for appropriate action on the amendment filed February 15, 2005, including consideration of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for benefit of the prior-filed application.

Frances Hicks

Frances Hicks
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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In re Application of:
Callister, Jeffrey P. et al
Serial No.: 11/048,237
Filed: Feb. 1, 2005
Docket : 687-479
Title: Enhancing Tissue Ingrowth for Contraception

DECISION ON PETITION

This is a decision on the petition filed on Aug. 17, 2007 by which petitioner requests reconsideration and withdrawal of the restriction requirement mailed May 17, 2007 and that at least non-elected claims 9, 10, 18, 30, 31, and 41 be rejoined and examined on the merits. Claims 1-8, 13-17, 28, 29 and 33-40 were elected and examined. This petition is considered as if pursuant to 37 CFR 1.144 and 37 CFR 1.181, and no fee is required.

The petition is **DISMISSED.**

Prosecution History

On Apr. 3, 2007, the examiner required an election of species[1] between the embodiments represented by Figures 1-21. The requirement alleged species A depicted by Figures 1-4, species B depicted by Figure 5, species C depicted by Figures 6-9, species D depicted by Figures 10-11, species E depicted by Figures 12-14, species F depicted by Figures 15-16, species G depicted by Figure 17, species H depicted by Figure 18, species I depicted by Figures 19-20 and species J depicted by Figure 21. On May 3, 2007, the applicant elected Species A, Figs. 1-4 with traverse because, at a minimum, the Species A-D and I should be joined as one single species. The applicant indicated that claims 1-10, 13-17, 28-29 and 33-40 are readable unto the elected species A, Figs. 1-4. On May 17, 2007, the examiner sent a non-final office action with a slight modification of the election of species requirement and examined the elected claims 1-8, 13-17,

[1] 37 CFR§ 1.146 Election of species. In the first action on an application containing a generic claim to a generic invention (genus) and claims to more than one patentably distinct species embraced thereby, the examiner may require the applicant in the reply to that action to elect a species of his or her invention to which his or her claim will be restricted if no claim to the genus is found to be allowable. However, if such application contains claims directed to more than a reasonable number of species, the examiner may require restriction of the claims to not more than a reasonable number of species before taking further action in the application.

28, 29 and 33-40 directed to Figs. 1-4 and 19-20. Claim 1 was held to be generic. On Aug. 17, 2007, the current petition was filed to request for reconsideration of the restriction requirement.

Petitioner's Position

Petitioner is of the opinion that the examiner did not established that the alleged species are independent or distinct as required by MPEP 802.01 and the examiner did not set forth the particular reason relied upon for holding that the inventions are either independent or distinct required by MPEP 808.01. The examiner set forth a listing of alternative embodiments found in the Figures that is a mere statement of conclusion and is inadequate to meet the requirements of MPEP 808.01. The Examiner did not provide any reasoning why examination of the alleged species would pose a serious burden as required by MPEP 808.02. Petitioner suggests that examination of all of the alleged Species would not pose a serious burden on the Examiner because alleged Species A-C, F and I are searchable in the same classifications. Lastly, Petitioner suggests that claims 1-10, 13-18 and 28-31, and 33-41 are linked by a single inventive concept because all claims are directed to an expandable occluding component having first and second elements formed of different metallic materials with an electrical connection between them to generate sufficient electrical activity to stimulate tissue growth.

Examiner's Position

In the non-final Office action of May 17, 2007, the examiner modified the restriction requirement and withdrew claims 1-12, 18-27 and 30-32 from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected Species B-J, there being no allowable generic or linking claim. Claims 9-10 have been withdrawn from further consideration because they read on non-elected Figures 15-16, not elected Figures 1-4. The examiner stated that the disclosed species are independent or distinct because Species A-H and J are distinct inventions. Species A contains an occluding device with a woven or interspersed wire element formed of metallic material. Species B contains an occluding device with bundles of fibrous strands intermittently spaced in a plurality of sections within the inner lumen. Species C contains an occluding device having a fibrous mesh of woven strands disposed at one end. Species D contains an occluding device with a fibrous jacket or sock on the outer surface. Species E contains an occluding device with a metallic rod in the interior. Species F contains an occluding device that is helically shaped made of two different metals. Species G contains an occluding device with two sheets of foil formed of different metals. Species H contains an occluding device having granules of different metals. Species J contains an occluding device having spider-like members. Figures 19 and 20 have been grouped with Species A. The examiner examined claims 1-8, 13-17, 28, 29 and 33-40 with claims 9-12, 18-27 and 30-32 withdrawn from consideration.

Discussion and Analysis

In judging the propriety of the restriction requirement, the disclosed species A-H and J, Figs. 1-4 and 19-20, as claimed, must be shown to be distinct in accordance with MPEP 802.01. As the examiner indicated in the restriction requirement of Apr. 3, 2007 and non-final Office action of May 17, 2007, the disclosed species A-H and J are indeed distinct and supported by the applicant's own specification (see Brief Description of Drawings of the specification and the

Detailed Description of Embodiments of the Invention, pages 10-21 of the specification). One skilled in the art would understand and interpret the disclosed embodiments illustrated in Figs. 1-21 of the specification to be distinct species. It is noted that throughout the prosecution the applicant did not admit the various disclosed embodiments are "obvious variants" among the others as suggested by the examiner in the restriction requirement of Apr. 3, 2007 (see third paragraph of page four of the restriction requirement). It is also noted that petitioner failed to explain why the disclosed and claimed embodiments are not patentably distinct so that the election of species was in error. As indicated on page two of the restriction requirement of Apr. 3, 2007, the examiner has determined that the various disclosed and claimed species are "patentably distinct". In order to withdraw the restriction requirement, it is encumbered upon the applicant to admit on record that the various disclosed and claimed embodiments are "not patentably distinct" or "obvious variants" of each other. Therefore, in this case, the examiner has found the disclosed and claimed embodiments or species A-H and J are indeed independent or distinct as supported by the specification.

Petitioner requests that at least claims 9, 10, 18, 30, 31 and 41 should be rejoined. However, as the examiner correctly pointed out, claims 9, 10, 18, 30, 31 and 41 are not readable upon the elected species A and I of Figs 1-4 and 19-20 and, therefore, are not generic claims. Petitioner failed to point out how the non-elected claims 9, 10, 18, 30, 31 and 41 are readable onto Figs. 1-4 and 19-20 and are generic.

Petitioner also argues that the prior art search for the various species is the same as the elected species because the prior art references discovered in the rejection of the elected claims are also relevant to the non-elected claims. Petitioner asserts searching these distinct species or embodiments would not require any additional burden on the examiner as they are all searchable within the same classification. This line of argument is unconvincing because those non-elected claims are in fact directed to different embodiments or species. The examiner must search for the claimed "helical shape element", "fibrous member within inner lumen and on the occluding component", "granule metallic elements", "planar and co-planer member", etc. This clearly indicates an extensive search must be conducted in order to perform a quality examination. Therefore, examining all claims would place a serious search burden on the examiner (MPEP 808.02).

Conclusion

A review of the record reveals that in the Office actions dated Apr. 3, 2007 and May 17, 2007, the examiner provided a detailed analysis of why the species are patentably distinct. Throughout the prosecution, the applicant failed to admit the various disclosed and claimed embodiments or species are "not patentably distinct" or "obvious variants" of each other as called for in the third paragraph of page four of the restriction requirement. The examiner indicated in the Office action dated May 17, 2007 that each of the various disclosed and claimed embodiments or species is directed to patentably distinct species. Since there is no generic claim found allowable, then, the restriction requirement is deemed proper. In addition, it is clear from the record that the examiner has demonstrated that a serious burden exists in examining all of the claims together by noting their differences. Therefore, the restriction requirement is proper.

For the reasons outlined above, the restriction requirement promulgated in the restriction requirement dated Apr. 3, 2007 and modified in May 17, 2007 is in accordance with proper Office procedure. Accordingly, the restriction requirement stands.

The application is being forwarded to Supervisory Patent Examiner of Art Unit 3772 for further consideration of the amendment filed on Aug. 17, 2007. 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.

The petition is DISMISSED.

Karen M. Young

for Frederick R. Schmidt, Director
Technology Center 3700

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MINNEAPOLIS, MN 55402

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JUN 2 0 2008

OFFICE OF PETITIONS

In re Application of	:
Callister et al.	:
Application No. 11/048,237	: DECISION ON PETITION
Filed: February 1, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 687-479	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed April 25, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/770,123, filed December 18, 1996.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

A reference to add the above-noted, prior-filed application on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed application. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

> Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter

barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See* In re deSeversky, *supra*. *Note also* MPEP 201.06(c).

Further, the amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the instant petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority) must commence on a separate physical sheet. 37 CF 1.4(c) states that each distinct subject, inquiry or order must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

In view of the above, the amendment to add a priority claim to the first line of the specification, which is physically embedded in the instant petition, is not acceptable. Accordingly, a substitute amendment, along with a renewed petition under 37 CFR 1.78(a)(3), must be submitted.

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment[1] in compliance with the aforementioned rules and deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required. No further petition fee is necessary.

Further correspondence with respect to this matter should be addressed as follows:

By mail:	Mail Stop PETITIONS Commissioner for Patents Post Office Box 1450 Alexandria, VA 22313-1450
By hand:	Customer Window located at: U.S. Patent and Trademark Office Customer Service Window Randolph Building 401 Dulany Street Alexandria, VA 22314
By fax:	(571) 273-8300 ATTN: Office of Petitions

Any questions concerning this matter may be directed to the undersigned at (571) 272-3206.

Liana Walsh
Petitions Examiner
Office of Petitions

[1] *Note* 37 CFR 1.121

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MINNEAPOLIS, MN 55402

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OFFICE OF PETITIONS

In re Application of	:
Callister et al.	:
Application No. 11/048,237	: DECISION GRANTING PETITION
Filed: February 1, 2005	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 687-479	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed June 27, 2008, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional Application No. 08/770,123, filed December 18, 1996, as set forth in the amendment filed concurrently with the instant petition.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

(1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional application is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the above-noted, prior-filed nonprovisional application has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3282.

This matter is being referred to Technology Center Art Unit 3772 for appropriate action on the amendment filed June 27, 2008, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

Liana Walsh
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
11/048,237	02/01/2005	3772	1290	687-479	41	5

CONFIRMATION NO. 8123

CORRECTED FILING RECEIPT

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OC000000030996641

Date Mailed: 07/16/2008

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)

Jeffrey P. Callister, Redwood City, CA;
William S. Tremulis, Redwood City, CA;

Assignment For Published Patent Application

Ovion, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 34205

Domestic Priority data as claimed by applicant

This application is a CIP of 08/770,123 12/18/1996 PAT 7,073,504
and claims benefit of 60/541,821 02/02/2004

Foreign Applications

If Required, Foreign Filing License Granted: 03/25/2005

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/048,237**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
**** SMALL ENTITY ****

Title

Enhancing tissue ingrowth for contraception

Preliminary Class

128

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at http://www.uspto.gov/web/offices/pac/doc/general/index.html.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, http://www.stopfakes.gov. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign AssetsControl, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Paper No.

Richard C. Kim
MORRISON & FOERSTER LLP
12531 High Bluff Drive
Suite 100
San Diego, CA 92130-2040

MAILED

APR 2 7 2006

Technology Center 2100

In re Application of:
James C. Brailean
Application No. 11/048,329
Filed: January 31, 2005
For: METHOD AND SYSTEM FOR PROVIDING INFORMATION TO REMOTE CLIENTS

DECISION ON REQUEST TO WITHDRAW AS ATTORNEY OR AGENT

This is a decision on the Request To Withdraw from Representation filed January 4, 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. ∋ 1. 136(a). The effective date of withdrawal being the date of decision and not the date of request. See M.P.E.P. ∋ 402.06. 37 C.F.R. ∋ 1.36 further requires that the applicant or patent owner be notified of the withdrawal of the attorney or agent.

The request filed January 4, 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

ZM Vincent N. Trans
Special Program Examiner
Technology Center 2100
Computer Architecture, Software, and
Information Security
(571) 272-3613

cc: Brian M. Mattson
PATENTS+TMS, P.C.
2849 W. Armitage Avenue
Chicago, IL 60647

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

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JUN 06 2008
OFFICE OF PETITIONS

In re Application of	:
WON, NARA	:
Application No. 11/048,270	: DECISION ON PETITION
Filed: 01/31/2005	: UNDER 37 CFR 1.78(a)(6)
Attorney Docket No. TI-39193	:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed April 7, 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 **DISMISSED.**

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

(1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
(2) the surcharge set forth in § 1.17(t); and
(3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

This pending nonprovisional application was filed on January 30, 2005, within twelve months of the filing date of the prior-filed provisional application, Application No. 60/611,436, which was filed on September 20, 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).

Furthermore, a review of Office computer database records indicates that there is a lack of common inventorship between the instant nonprovisional application and the provisional application noted in the amendment submitted concurrently with the petition. The statute requires that the applications claiming benefit of the earlier filing date under 35 U.S.C. §§ 119(e) or 120 be filed by an inventor or inventors named in the prior-filed nonprovisional or provisional application.

Accordingly, before the petition under 37 CFR 1.78(a)(6) can be granted, petitioner must submit a renewed petition under 37 CFR 1.78(a)(6) and either a Supplemental Data Sheet or an amendment (complying with 37 CFR §§§ 1.121, 1.76 and 1.33(b)),[1] including a reference to a prior-filed application with at least one common inventor, and deleting the incorporation by reference statement. No additional petition fee is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

[1] The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, an ADS, supplemental ADS, or a substitute amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS

PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON IA 50131-0552

In re Application of	:	
Blair Charles Fuessley et al	:	
Application No. 11/048,286	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 1959	:	

This is a decision on the petition, filed August 4, 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 July 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1638 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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OFFICE OF PETITIONS

In re Application of	:	
Naokazu Nemoto et al	:	
Application No. 11/048,290	:	DECISION GRANTING PETITION
Filed: January 31, 2005	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 16869A-142000US	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 16, 2009, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 18, 2009 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2166 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

---

[1] *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment of the application.*

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HOWARD J. GREENWALD, P.C.
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

In re Application of	:	
Xingwu Wang, et al.	:	
Application No. 11/048,297	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. XWHG-784	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b) filed September 30, 2005.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Howard J. Greenwald, P.C. has been revoked by the assignee of the patent application on May 30, 2006. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to April Wise at 571-272-1642.

April M. Wise
Petitions Examiner
Office of Petitions

cc: NANOSET, LLC
349 WEST COMMERCIAL STREET
SUITE 2490
EAST ROCHESTER, NY 14445

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
11/048,297	01/31/2005	Xingwu Wang	XW-784

CONFIRMATION NO. 5625

OC000000021280413

OC000000021280413

Nanoset LLC
Suite 2490
349 West Commercial Street
East Rochester, NY 14445

Date Mailed: 11/17/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/30/2006.

- 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).

APRIL M WISE
OP (571) 272-1642

FORMER ATTORNEY/AGENT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
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ALEXANDRIA, VA 22313-1450
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PIONEER HI-BRED INTERNATIONAL, INC.
7250 N.W. 62ND AVENUE
P.O. BOX 552
JOHNSTON, IA 50131-0552

In re Application of
Martin A. Fabrizius, et al.
Application No. 11/048,300
Filed: January 31, 2005
Attorney Docket No. 1933

ON PETITION

This is a decision on the petition, filed August 4, 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 July 21, 2005, in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance. [1]

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 1638 for further processing of the request for continued examination under 37 CFR 1.114.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

[1]The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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SIEMENS CORPORATION
INTELLECTUAL PROPERTY DEPARTMENT
170 WOOD AVENUE SOUTH
ISELIN, NJ 08830

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JAN 3 1 2006

OFFICE OF PETITIONS

In re Application of	:	
Bogdan von Rueckmann, et al.	:	
Application No. 11/048,312	:	ON PETITION
Filed: February 1, 2005	:	
Attorney Docket No. 2004P01555US01	:	

This is a decision on the petition under 37 CFR 1.137(b), filed January 19, 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 9, 2005. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on May 10, 2005. A Notice of Abandonment was mailed on January 5, 2006.

The file is being forwarded to the Office of Initial Patent Examination for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3228.

Edward J. Tannouse
Petitions Attorney
Office of Petitions/Patent
Office of the Deputy Commissioner
for Patent Examination Policy

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Ingrassia Fisher & Lorenz, P.C.
7150 E. Camelback, Suite 325
Scottsdale, AZ 85251

In re Application of	:	
Robert G. Walker et al.	:	
Application No. 11/048,322	:	DECISION ON PETITION
Filed: January 31, 2005	:	TO WITHDRAW
Attorney Docket No. 009.4052(P10103.00)	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 22, 2005.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to the attorneys and agents associated with Customer Number 29906 has been revoked by the assignee of the patent application on August 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 Terri Williams at 571-272-2991.

Terri Williams for

David Bucci
Petitions Examiner
Office of Petitions

cc: **Mary Y. Redman**
Medtronic Emergency Response System Inc.
P.O. Box 97006
Redmond, WA 98073

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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
11/048,322	01/31/2005	Robert G. Walker	009.4052 (P10103.00)

CONFIRMATION NO. 8000

OC000000021027624

OC000000021027624

53049
MARY Y. REDMAN
MEDTRONIC EMERGENCY RESPONSE SYSTEM INC.
P.O. BOX 97006
REDMOND, WA 98073

Date Mailed: 10/30/2006

NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2006.

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.

Terri S. Williams

TERRI S WILLIAMS
OP (571) 272-2991

ATTORNEY/APPLICANT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/048,322	01/31/2005	Robert G. Walker	009.4052 (P10103.00)

CONFIRMATION NO. 8000

OC000000021027623

OC000000021027623

29906
INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

Date Mailed: 10/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2006.

- 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).

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

NEW ATTORNEY/AGENT COPY

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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
11/048,322	01/31/2005	Robert G. Walker	009.4052 (P10103.00)

CONFIRMATION NO. 8000

OC000000021027623

OC000000021027623

29906
INGRASSIA FISHER & LORENZ, P.C.
7150 E. CAMELBACK, STE. 325
SCOTTSDALE, AZ 85251

Date Mailed: 10/30/2006

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 08/08/2006.

- 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).

T. Williams

TERRI S WILLIAMS
OP (571) 272-2991

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UNITED STATES PATENT AND TRADEMARK OFFICE
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LEXMARK INTERNATIONAL, INC.
INTELLECTUAL PROPERTY LAW DEPARTMENT
740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON, KY 40550-0999

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APR 18 2007

OFFICE OF PETITIONS

In re Application of :
John T. Fessler, et al. :
Application No. 11/048,328 : ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. 2004-0380.01 :

This is a decision on the petition, filed November 6, 2006, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

It is noted that the petition is not signed by an attorney of record. However, in accordance with 37 CFR 1.34(a), the signature of Steven J. Grossman appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. A courtesy copy of this decision is being mailed to petitioner. If Mr. Grossman desires to receive future correspondence regarding this application, then the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record.

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 October 24, 2006, as required by the Notice of Allowance and Fee(s) Due and the Notice of Allowability, mailed July 24, 2006. Accordingly, the date of abandonment of this application is October 25, 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 $1,400, the publication fee of $300, and corrected formal drawings, (2) the petition fee of $1,500; and (3) an adequate statement of unintentional delay[1].

The application is being referred to the Office of Publications to oversee the review of the drawing filed November 6, 2006 and for processing into a patent.

[1] 37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. While the statement is not made by an attorney of record, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquires related to this decision may be directed to the undersigned at (571) 272-3204. Status inquires related to processing at Publishing Division should be directed to (571) 272-4200.

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: STEVEN J. GROSSMAN
GROSSMAN, TUCKER, PERREAULT & PFLEGER, PLLC
55 SOUTH COMMERCIAL STREET
MANCHESTER, NH 03101

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MORRISON & FOERSTER LLP
12531 HIGH BLUFF DRIVE
SUITE 100
SAN DIEGO CA 92130-2040

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OFFICE OF PETITIONS

In re Application of	:	
Brailean et al.	:	DECISION ON PETITION
Application No. 11/048,329	:	TO WITHDRAW
Filed: January 31, 2005	:	FROM RECORD
Attorney Docket No. 553962000100	:	

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 4, 2006.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.36(a).

The request was signed by Richard C. Kim on behalf of all attorneys of record.

All attorneys/agents 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 assignee of the entire interest at the below-listed address until otherwise properly notified by the applicant.

Telephone inquires concerning this decision should be directed to Petitions Examiner Liana Chase at (571) 272-3206. All other inquires concerning either the examination or status of the application should be directed to the Technology Center.

David Bucci
Petitions Examiner
Office of Petitions

Cc: RICHARD C. KIM
MORRISON & FOERSTER, LLP
3811 VALLEY CENTRE DRIVE
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BRIAN M. MATTSON
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7250 N.W. 62ND AVENUE
P O BOX 552
JOHNSTON, IA 50131-0552

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OFFICE OF PETITIONS

In re Application of	:
Steven Roger Schnebly et al	:
Application No. 11/048,351	: DECISION GRANTING PETITION
Filed: January 31, 2005	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 1935	:

This is a decision on the petition, filed August 4, 2005, under 37 CFR 1.313(c)(2), and supplemented on August 5, 2005, 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 21, 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 1638 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the submission of August 5, 2005.

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), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form* ***must*** *be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).*

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: X

DATE : **March 17, 2008**

TO SPE OF : ART UNIT ~~1826~~ 3748 TD

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/048361** Patent No.: **7171941 B2**

A response is requested with respect to a request for a certificate of correction.

With respect to the change(s) requested to correct Office and/or Applicant's errors, should the patent read as shown in the certificate of correction attached herewith or the COCIN document(s), in IFW images for the above-identified patented application? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

If the response is for an IFW, within 7 days, please complete and forward the response, to the employee (named below) via scanning into application images, using document code COCX.

DO NOT SENT TO ATTORNEY

If the response is for a paper file wrapper, please complete the response and forward the response with the paper file wrapper, to the employee (named below), within **7** days, to:

Certificates of Correction Branch (CofC)
South Tower - 9A22
Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

LAMONTE NEWSOME
Certificates of Correction Branch
703-308-9390 ext. 112

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:
Note your decision on the appropriate box.

- [x] **Approved** — **All** changes apply.
- [ ] **Approved in Part** — Specify below which changes **do not** apply.
- [ ] **Denied** — State the reasons for denial below.

Comments: _____

Thomas Denion
THOMAS DENION
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700
SPE

3748
Art Unit

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OFFICE OF PETITIONS

In re Application of	:	
Martin Arthur Fabrizius et al	:	
Application No. 11/048,365	:	ON PETITION
Filed: January 31, 2005	:	
Attorney Docket No. 1938	:	

This is a decision on the petition, filed August 4, 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 July 21, 2005 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.[1]

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

The examiner of Technology Center AU 1638 will consider the request for continued examination under 37 CFR 1.114.

Karen Creasy

Karen Creasy
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

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[1] The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: "Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above." Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

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OFFICE OF PETITIONS

In re Application of	:	
Thompson and Mueller	:	
Application No. 11/048,380	:	DECISION REFUSING STATUS
Filed: 31 January, 2005	:	UNDER 37 CFR 1.47(a)
Atty Docket No. 1966	:	

This is in a decision in response to the petition under 37 CFR 1.47(a) filed on 31 January, 2005.

The Office apologizes for the delay in responding to the present petition and regrets any inconvenience to petitioners.

The petition is **DISMISSED**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to respond, correcting the below-noted deficiencies. Any response should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)" and may include an oath or declaration executed by the inventor. Failure to respond will result in abandonment of the application. Any extensions of time will be governed by 37 CFR 1.136(a).

The above-identified application was filed on 31 January, 2005, with a declaration naming Jeffrey Allan Thompson and Ervin Henry Mueller as joint inventors and signed by joint inventor Thompson on behalf of himself and joint inventor Mueller. The present petition was also filed with the application papers.

Petitioners assert that joint inventor Mueller is deceased and that his estate is now closed. Petitioners further assert that Charles Mueller and Robert Mueller were the executors of deceased inventor Mueller's state, but are unwilling to execute new letters of administration such that they can sign the application on behalf of the non-signing inventor.

37 CFR 1.42 states, in part:

> In the case of the death of the inventor, the legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent.

A grantable petition under 37 CFR 1.47(a) requires:

(1) proof that the non-signing inventor, or legal representative thereof, cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings);

(2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116;

(3) the petition fee; and

(4) a statement of the last known address of the non-signing inventor, or legal representative thereof.

The petition lacks items (1) and (2).

In regards to item (1), petitioners have not shown that the legal representative(s) of the non-signing inventor were sent or presented with a copy of the application as filed (specification, including claims, drawings, if any, and the declaration).[1]

Petitioners may show proof that a copy of the application was sent or given to the non-signing inventor for review by providing a copy of the cover letter transmitting the application papers to the legal representative(s) of the non-signing inventor or details given in an affidavit or declaration of facts by a person having first-hand knowledge of the details.

Likewise, before a *bona fide* refusal to sign the declaration can be alleged, petitioners must show that a copy of the application (specification, including the claims, drawings, if any, and the declaration) was sent or given to the putative legal representative. If the representative 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.

In the event that Mueller's legal representative(s) refuse in writing to sign the declaration, petitioners should provide a copy of the written refusal with any renewed petition. If the

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[1] MPEP 409.03(d).

refusal is made orally to a person, then that person must provide details of the refusal in an affidavit or declaration of facts.

With regard to item (2), the oath or declaration must identify the name, residence, mailing address, and citizenship of the legal representative(s) of the deceased inventor, and state that the legal representative is signing on behalf of the deceased joint inventor. The declaration must identify the deceased joint inventor by name. A new oath or declaration in compliance with 37 CFR 1.63 and 1.64, containing the information described in this paragraph, is required.

It is noted that effective 8 December, 2004, the fee for a petition under 37 CFR 1.47 is $200.00. As such, the balance of the fee due will be charged to counsel's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By 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.

DWood

Douglas I. Wood
Senior Petitions Attorney
Office of Petitions

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Law Office Of Robert E. Kasody,
Professional Corporation
6601 Center Drive West, Suite #500
Los Angeles CA 90045

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OFFICE OF PETITIONS

In re Application of :
Joseph F. Scalisi et al. :
Application No. 11/048,395 : ON PETITION
Filed: February 1, 2005 :
Attorney Docket No. LBTECH.004A :

This is a decision on the petition under 37 CFR 1.137(b), filed July 28, 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 October 20, 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 23, 2007. The Notice of Abandonment was mailed May 23, 2007.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of $750; and (3) an adequate statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Williams at (571) 272-2291.

The application file is being referred to Technology Center AU 2612 for appropriate action on the concurrently filed amendment.

Liana Walsh
Petitions Examiner
Office of Petitions